Federal and State Employment Standards and U.S. Farm Labor

An online reference guide to labor protective laws and their applicability in the agricultural workplace

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EDITORIAL RESPONSIBILITY AND RIGHTS

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INTRODUCTION

PURPOSE AND SCOPE

As an aid to public policymakers, program administrators, legal personnel and others with an interest in farmworkers or agricultural employment, this resource represents an attempt to inventory as comprehensively as possible existing labor laws in the United States and the Commonwealth of Puerto Rico, and to assess their applicability in agriculture. The common element among the 1,044 listings cataloged here is that each such provision imposes a duty, limitation or liability on employers for the protection or benefit of their employees.

The intent in compiling this material, and in organizing it as described below, isn't only to inform the reader of the legal safeguards that apply in whole or in part to the agricultural workplace, but to call attention to those that do not. An objective, up-to-date picture of agricultural employment rights relative to the labor force at large is as important a by-product of the research behind this publication as its practical application in resolving individual worker questions and complaints.

GENERAL FORMAT

Federal Provisions. The first section of the reference guide covers legislation enacted by Congress, measures which apply to affected employers and employees in all parts of the country and are generally administered by agencies of the U.S. government. As noted in the section index (pages 3-4), the laws are arranged under ten major subject classifications and further categorized into more specific regulatory topics. The popular name of each federal provision summarized in the catalog appears in the index on the appropriate subject line, followed by the page number of the corresponding synopsis. Preceding each index entry is a circular symbol indicative of the extent to which the law applies to agricultural employment; the coverage codes are explained more fully on page 2, below.

State Provisions. The labor laws of the 50 states and Puerto Rico are presented in essentially the same format as the federal material. Each state subsection opens with an itemized table of the provisions summarized thereafter and their respective page numbers.

All Provisions by Topic. In this section, the law summaries are arranged by topic, with federal provisions displayed first and state provisions displayed alphabetically thereafter.

Appendix. A state-by-state coverage-coded recap of the employment standards cataloged in the text appears in the first four pages of the appendix. Secondly, to link users of the reference guide — particularly farmworker program administrators — to others who are directly involved in the resolution of agricultural employment problems, the appendix contains a brief functional description and contact information on (1) the nationwide network of farmworker employment and training programs administered by the U.S. Department of Labor, (2) the migrant legal assistance projects supported by the Legal Services Corporation, and (3) the farmworker monitor advocate corps in the state employment security agencies.

FORMAT AND CONTENT OF LAW SUMMARIES

With only minor variations, the entries in all three sections are laid out in identical format and captioned as follows:

Statutory Citation. The common name or short title of the provision being summarized appears in boldface caps at the top of the entry, followed by a reference to the section or sections of the U.S. Code or state statutes where the actual legislative language may be found. Since Congress and the legislatures often leave the development of specific standards and compliance procedures to the discretion of the enforcement or administering agencies, if the summary deals to any extent with regulatory material, there may also be a citation of relevant sections of the Code of Federal Regulations, the state administrative code, or an agency rule.

General Summary. After the statutory or regulatory citation, the reader will typically find a one-paragraph summary of the scope or intent of the law under review, including in many cases a brief general definition of the universe of employers subject to its requirements or the workers entitled to its benefits.

Provisions Applicable to Agriculture. The opening overview leads into a specific statement regarding the provision's applicability to agriculture, which may entail only a single sentence where the provision categorically excludes agricultural employment, or up to several paragraphs in the case of a law whose agricultural coverage criteria are complex or considerably

different from those applicable to non-agricultural situations. Provisions that apply equally to farm and non-farm employment, and those that are relevant only to agriculture (the pesticide statutes and the farm labor contractor registration laws, for instance), are described in similar detail, under the alternate catchline, "Specific Terms and Conditions."

Special Notes or Advisories. Miscellaneous procedural information with a significant bearing on the protections or benefits afforded by the provision in question will appear at the end of the affected entry. Prohibitions against retaliation, jurisdictional matters such as preemption, and pending legal challenges or court rulings affecting the validity of the legislation are examples of the sort of issues addressed under this caption.

Administration and Enforcement. In general, the name, headquarters city, mail-address ZIP code, and telephone number of the primary agency responsible for enforcing compliance with the law or administering the benefits involved are highlighted in italics, followed by a synopsis of the lead agency's related functions and authorities; where the provision does not apply to agricultural labor, only the agency name, location and ZIP code appear. Similar information is provided for each secondary or related agency, if any, and statutorily prescribed penalties for non-compliance are commonly cited in this section also. If the statute grants workers an explicit right to sue for violations, a statement to that effect will appear after the sub-head, "Private Civil Action."

COVERAGE CODES

As a device for summarizing agricultural coverage visually without bewildering the reader with complex symbology, the following three codes are used in the federal and state indexes, the main text and the appended coverage table to characterize the provisions surveyed in this guide:

- A general labor law or employment standard that applies to agricultural and non-agricultural workers on substantially equal terms, or an agricultural provision that applies to virtually all farmworkers.
- A general law whose agricultural coverage is substantially narrower than its non-agricultural coverage, or an agricultural provision that applies to only certain classes of farmworkers or under certain less-than-universal coverage criteria.
- O A provision that is not applicable to agricultural employment.

Assignment of the appropriate code to a certain statute or regulation may, of course, involve some editorial discretion, especially where coverage criteria are non-numerical, but for the purpose of deducing a broad profile of the scope and equitability of the labor laws in a given jurisdiction, this classification scheme is reasonably reliable.

CAUTIONARY REMINDERS

All entries included on these pages have been reviewed for accuracy, in most cases by their respective administering agencies, and reflect statutory and regulatory policy as of early 2017. This material is not currently being updated, nor does the publishing agency anticipate being able to do that on any formal or regular basis.

Whether consulting the catalog about a specific provision in a particular state or reading for general information, the user should keep in mind that the body of law from which this material is distilled is subject to change — often minor, sometimes dramatic — with every passing session of Congress, the state legislatures and the courts. Any doubt about the current language or interpretation of the law should be resolved by referring to official written sources, contacting a relevant administrative agency, or conferring with a knowledgeable attorney.

Although the federal and state civil rights laws, the federal immigration act and other provisions assessed in this online publication deal in part with subject matter outside the realm of employment, no attempt has been made to expound on the non-employment-related aspects of any item in the inventory. Similarly, to the extent that a statute contains distinct agricultural provisions, the synopsis addresses only those rights and conditions applicable to farmworkers, farm employers or the agricultural workplace.

Finally, it is worth noting that formal enactment of labor legislation or adoption of administrative rules is no guarantee that covered employees will benefit fully or consistently from the prescribed protections or entitlements. The fact is, the agencies responsible for enforcing employment standards are not always adequately staffed to maintain uniform compliance, and in some cases administrative penalties may be so lax that violation of the law is financially less taxing than compliance. Where administrative enforcement is effectively neutralized, vigorous pursuit of civil remedies and available criminal sanctions is advisable.

United States

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Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
Child Labor	Age, Hour, and Related Standards	•	Fair Labor Standards Act of 1938	5
	Compulsory School Attendance			
	Other			
Civil Rights	Fair Employment Practices	•	Civil Rights Act of 1964 (Title VII)	6
	Wage Discrimination	•	Equal Pay Act of 1963	7
	Age Discrimination	•	Age Discrimination in Employment Act of 1967	7
	Whistleblower Protection			
	Other	•	Immigration and Nationality Act (Immigration-Related Employment Discrimination)	8
Health	Workplace Safety	•	Occupational Safety and Health Act of 1970	9
	General Workplace Sanitation			
and Safety	Agricultural Field Sanitation	•	Occupational Safety and Health Act of 1970 (Field Sanitation)	10
	Other			
	General Employee Housing Standards	•	Occupational Safety and Health Act of 1970 (Temporary Labor Camps)	11
Housing	Farm Labor Housing Standards	0 0	Wagner-Peyser Act Migrant and Seasonal Agricultural Worker Protection Act	12 14
nousing	Access and Visitation Rights			
	Other	•	Immigration and Nationality Act (Temporary Agricultural Workers)	15
	Unemployment Insurance	•	Federal Unemployment Tax Act	16
	Workers' Compensation			
Insurance and Compensation	Disability Insurance	•	Social Security Act / Federal Insurance Contributions Act	16
Compensation	Paid Family Leave			
	Other			
	Private Employment Agency Regulation			
Labor Contractors	Farm Labor Contractor Registration	•	Migrant and Seasonal Agricultural Worker Protection Act	18
and Worker Recruitment	Recruitment Standards	•	Immigration and Nationality Act (Temporary Agricultural Workers)	19
. too samont	Other			

United States

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
Labor Relations and	General Labor Relations	0	National Labor Relations Act	
	Agricultural Labor Relations			
Collective Bargaining	Other			
	General Application Standards	•	Federal Insecticide, Fungicide, and Rodenticide Act	22
	Aerial Application Standards		Federal Insecticide, Fungicide, and Rodenticide Act (Aerial Applicator Certification) Federal Aviation Act of 1958	23 24
Pesticides and	Field Worker Safety Standards		Federal Insecticide, Fungicide, and Rodenticide Act (Worker Safety)	24
Agricultural Chemicals	Hazard Communication (Toxic Substances)	•	Occupational Safety and Health Act of 1970 (Hazard Communication)	26
	Anhydrous Ammonia	•	Occupational Safety and Health Act of 1970 (Anhydrous Ammonia)	28
	Other			
	General Employee Transportation Safety			
Transportation	Farmworker Transportation Safety	0.0	Federal Transportation Laws (Migrant Worker Motor Carriers) Migrant and Seasonal Agricultural Worker Protection Act (Motor Vehicle Safety)	29 30
	Other	•	Immigration and Nationality Act (Temporary Agricultural Workers)	31
	Minimum Wage	0.0	Fair Labor Standards Act of 1938 Immigration and Nationality Act (Temporary Agricultural Workers)	32 33
	Overtime Pay	0	Fair Labor Standards Act of 1938 (Hours and Overtime)	34
Wages and Hours	Hour Standards			
	Wage Payment and Collection	0 0	Migrant and Seasonal Agricultural Worker Protection Act (Payment of Wages) Immigration and Nationality Act (Temporary Agricultural Workers)	35 35
	Agricultural Liens			
	Income Tax Withholding	•	Internal Revenue Code of 1986 (Collection of Income Tax at the Source on Wages)	36
	Other			

CHILD LABOR

→ FAIR LABOR STANDARDS ACT OF 1938

STATUTORY CITATION: 29 USC §§ 201 - 219

RELATED REGULATIONS: 29 CFR Parts 570 and 575

GENERAL SUMMARY: Apart from its provisions regulating wages and working hours, the Fair Labor Standards Act prohibits employers from employing oppressive child labor in commerce, in the production of goods for commerce, or in any enterprise engaged in commerce or the production of goods for commerce. Likewise, no producer, manufacturer or dealer may handle goods where oppressive child labor has been employed within 30 days prior to the removal of the goods.

The Act defines "oppressive child labor" somewhat generally, but within limits gives the Secretary of Labor authority to restrict the ages, hours and occupations of minors employed in businesses affecting interstate trade.

PROVISIONS APPLICABLE TO AGRICULTURE: The Fair Labor Standards Act limits the employment of minors in agriculture according to age and occupational activity, as summarized below.

AGE RESTRICTIONS — No one under the age of 16 may be employed in agriculture during school hours for the school district where the minor is living at the time, even if state law does not require the individual to attend school. Outside school hours, no one under the age of 14 may be employed in agriculture, except under the following conditions:

Children Under Age 12 — In general, minors under 12 years of age may be employed only with the written consent of their parent or person standing in the place of the parent, and only on farms where none of the employees are legally entitled to the federal minimum wage.

Exception — Children age 10 and 11 may be employed by a farm operator who is subject to the minimum wage if the operator has obtained a special child labor waiver from the U.S. Department of Labor. DOL may grant such a waiver only after determining that (1) the crop involved is characterized by a short harvest season and that exclusion of 10- and 11-year-old workers would cause severe economic disruption in the industry, (2) employment of such children would not be deleterious to their health and well-being, (3) the level and type of pesticides used would not adversely affect child workers' health, (4) workers 12 years of age or over are not available, and (5) the industry has traditionally used 10- and 11-year-olds without curtailing job opportunities for workers age 16 and above. Children age 10 and 11 employed under the special waiver may be employed on the farm involved only between June 1 and October 15 and for no more than 8 weeks in a calendar year, must commute each day between their permanent residence and the farm involved, and may only perform hand-harvest jobs customarily paid on a piece-rate basis in the region of employment.

Children Age 12 and 13 — Minors 12 and 13 years of age may be employed only with the written consent of their parent or person standing in the place of the parent, or if the job is on the same farm where such parent or person is also employed.

HOUR RESTRICTIONS — The limitations on the time of day and total working hours applicable to 14- and 15-year-olds in most non-farm occupations *do not apply* to minors employed in agriculture.

HAZARDOUS OCCUPATIONS — Certain types of farm jobs have been found and declared by the Secretary of Labor to be hazardous to minors, and thus closed to workers under the age of 16. These jobs include, among several others, (1) operating high-power tractors, (2) operating or helping to operate power-driven harvesting machines, (3) driving a bus, truck or automobile transporting passengers, (4) working from a ladder at a height over 20 feet, and (5) handling or applying agricultural chemicals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is authorized to investigate possible violations and complaints of violations, and to impose and enforce civil penalties when violations are confirmed. This agency is also responsible for issuing federal certificates of age, in response to valid applications from employers seeking to document their compliance with child labor regulations. Similarly, the Wage and Hour Division reviews waiver applications for agricultural employment of 10- and 11-year-old minors in hand harvesting of short-season crops, and for assuring that jobs offered under the waiver are not harmful to the health and well-being of child workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

CIVIL RIGHTS ACT OF 1964 (TITLE VII)

STATUTORY CITATION: 42 USC 2000e - 2000e-17

RELATED REGULATIONS: 29 CFR Part 1601

GENERAL SUMMARY: Title VII of the Civil Rights Act of 1964 defines certain unlawful employment practices by employers, employment agencies, labor organizations and training programs, and establishes procedures for reporting and resolving employment discrimination complaints. The law generally applies to employers — agricultural and non-agricultural alike — who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year are prohibited from engaging in any of the following practices:

- (1) Refusing to hire a job applicant, harassing or discharging an employee, or otherwise discriminating against an individual with respect to compensation and other terms or conditions of employment, because of the individual's race, color, religion, national origin, or sex (including gender identity, sexual orientation, and pregnancy).
- (2) Segregating, limiting or classifying job applicants or employees in any way which would deprive or tend to deprive them of employment opportunities or adversely affect their job status, on the basis of race, color, religion, national origin, or sex.
- (3) Printing or publishing notices or advertisements indicating a preference or specification based on race, color, religion, national origin, or sex, except where such preference or specification is a bona fide occupational qualification for employment.

Comparable discriminatory practices by employment agencies and labor organizations are also unlawful.

COMPLAINT PROCEDURE — Anyone who is aggrieved by an apparent act of unlawful employment discrimination may file a charge with the enforcement agency, generally no later than 180 days after the alleged discrimination occurred. If the agency's investigation finds that there is reasonable cause to believe that the charge is true, the agency must attempt to eliminate the discriminatory practice through conference, conciliation and persuasion, but if informal measures do not result in an acceptable conciliation agreement, the agency may take legal action against the employer or other respondent named in the complaint in federal court. A finding by the court that an employer has intentionally engaged in unlawful employment discrimination under the Act may result in an order requiring the employer to cease the discriminatory practice and to take appropriate affirmative action, which may include hiring or reinstatement of the affected employee (with or without back pay) or other relief. In certain cases and under certain circumstances, the court may award monetary damages.

SPECIAL NOTES OR ADVISORIES

DEFERRAL OF ENFORCEMENT TO STATE OR LOCAL AGENCIES — In a state or locality which has a state or local law prohibiting unlawful employment practices and designating a state or local authority to enforce the prohibition, an employee may not file a charge with the Equal Employment Opportunity Commission until at least 60 days after filing the complaint with the state or local agency, or until action by the state or local agency is terminated, whichever occurs first.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee or job applicant because the employee or applicant has filed a complaint, participated in a proceeding, or opposed any practice made illegal under Title VII.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). The Commission is authorized to investigate charges of unlawful employment practices under the Act, take statements from employees and employers, conduct fact-finding conferences and hearings, subpoena witnesses and information, inspect and copy records, and bring civil actions against employers found to have violated the law. Complaints are taken at any district, area or local EEOC office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The Commission may delegate primary responsibility for acting on civil rights complaints brought to its attention to any state or local fair employment practices agency which enforces anti-discrimination provisions similar to those described under this law and which meets certain other criteria. Puerto Rico and all states except Arkansas and Mississippi have statewide or local agencies to which EEOC will defer all or certain types of charges under the Act.

PRIVATE CIVIL ACTION — If a complaint filed with the Commission is dismissed, or the Commission has not reached an acceptable conciliation agreement with or taken legal action against the respondent named in the complaint within certain specified timeframes, the Commission may provide the complainant with a notice of the right to sue. At any time within 90 days after the notice is given, the complainant may file suit against the respondent in civil court directly, using a private attorney or a public legal service provider.

STATUTORY CITATION: 29 USC § 206(d)

RELATED REGULATIONS: 29 CFR Parts 1620 and 1621

GENERAL SUMMARY: The Equal Pay Act generally prohibits an employer subject to the federal minimum wage from discriminating between employees on the basis of sex by paying wages to employees at a rate less than that at which he or she pays employees of the opposite sex at the same establishment for substantially equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. Different pay scales, however, may be utilized where payment is made pursuant to (1) a seniority system, (2) a merit system, (3) a system which measures earnings by quantity or quality of production, or (4) a differential based on any factor other than sex.

Wages withheld in violation of the Equal Pay Act have the status of unpaid minimum wages or unpaid overtime compensation under the Fair Labor Standards Act and may be recovered in the same manner.

PROVISIONS APPLICABLE TO AGRICULTURE: In accordance with the related minimum-wage coverage provisions (see entry, U.S. — Wages & Hours — Minimum Wage), only those agricultural workers who are employed by a farm operator or other agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are covered by the Equal Pay Act.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint or participated in any investigation or proceeding under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). The Commission is authorized to investigate and gather data regarding wages, hours and other employment conditions and practices, to enter and inspect workplaces and records, to interview individuals, and to subpoena witnesses and order the production of documents. The Commission may file suit on behalf of any worker claiming to have been victimized by a violation of the Equal Pay Act, and may supervise payment of back wages and civil penalties. Certain violations may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Commission, a person who has been subjected to unlawful wage discrimination on the basis of sex may take civil action against the employer involved directly, using a private attorney or a public legal service provider. Any such action must be filed no later than 2 years after the discrimination occurred (within 3 years in the case of a willful violation).

• AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

STATUTORY CITATION: 29 USC §§ 621 - 634

RELATED REGULATIONS: 29 CFR Parts 1625 - 1627

GENERAL SUMMARY: The Age Discrimination in Employment Act protects persons who are at least 40 years of age against arbitrary age discrimination by employers engaged in any industry affecting commerce — including agriculture — and who have 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Employment agencies that regularly procure employees for at least one covered employer, as well as most labor organizations with 25 or more members, are also subject to the Act.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is unlawful for employers subject to the Act to fail or refuse to hire a job applicant, to harass or discharge an employee, or to otherwise discriminate against an individual with respect to compensation and other terms or conditions of employment, because of the individual's age. Likewise, employers may not limit, segregate or classify employees in any way which would deprive or tend to deprive a person of employment opportunities, or otherwise adversely affect his or her status as an employee, by reason of the person's age.

EXCEPTIONS — The Act does not forbid employment practices based on age where age is a bona fide occupational qualification, nor does it bar an employer from observing the terms of a bona fide seniority or benefit plan or from differentiating among employees on the basis of reasonable factors other than age.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee or job applicant because the employee or applicant has filed a complaint, participated in a proceeding, or opposed an illegal practice under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). The Commission may conduct investigations, gather compliance data, enter and inspect workplaces, review personnel records, and interview employees. In general, any worker 40 years of age or older who has been denied rights protected under the Age Discrimination in Employment Act may file a complaint with the Commission at any time within 180 days after the apparent violation took place. Before instituting civil action to enforce the Act, the Commission must attempt to eliminate the alleged discriminatory practice and effect voluntary compliance through informal methods of conciliation, conference and persuasion. In any judgment in a complainant's favor, the Act authorizes recovery of back wages and, in instances of willful violations, liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The Commission may delegate primary responsibility for acting on civil rights complaints brought to its attention to any state or local fair employment practices agency which enforces anti-discrimination provisions similar to those described under this law and which meets certain other criteria. Puerto Rico and all states except Arkansas and Mississippi have statewide or local agencies to which EEOC will defer all or certain types of charges under the Act.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who has been adversely affected by a violation of the Age Discrimination in Employment Act may bring suit against the employer or other offending party. However, in no event may an individual commence private action under the Act until 60 days after a charge of age discrimination has been filed with the Commission, and the right to sue privately ends once the Commission initiates court action to enforce the employee's rights under the Act.

■ IMMIGRATION AND NATIONALITY ACT (IMMIGRATION-RELATED EMPLOYMENT DISCRIMINATION)

STATUTORY CITATION: 8 USC § 1324b

RELATED REGULATIONS: 28 CFR Parts 0 and 44

GENERAL SUMMARY: As amended in 1986, the Immigration and Nationality Act outlaws certain forms of employment discrimination based on national origin or citizenship status, prohibitions which apply equally to agricultural and non-agricultural employers.

SPECIFIC TERMS AND CONDITIONS

UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES — In general, no one who employs more than 3 employees may discriminate against any individual (other than an undocumented worker) with respect to hiring, firing, job recruitment or job referral, when such discrimination is because of the individual's national origin or the individual's status as (1) a U.S. citizen, or (2) a lawfully admitted permanent resident who applied for U.S. citizenship within 6 months of becoming eligible but has not yet been naturalized and is still within the prescribed 2-year window after application.

EXCEPTION — It is not regarded as unlawful for an employer or other entity to prefer to hire, recruit or refer a U.S. citizen over a non-citizen, if the two individuals are equally qualified.

COMPLAINTS — A person (or the authorized representative of a person) who has been subjected to an apparent act of unfair immigration-related employment discrimination may, within 180 days after the act occurs, file a written charge of violation with the enforcement agency. Within 120 days after receipt of the worker's charge, the agency must undertake an investigation and determine whether or not to file a formal complaint against the respondent. In the event the agency fails to file a complaint with an administrative law judge within 120 days after timely receipt of a worker's charge of unfair immigration-related employment discrimination, the worker has 90 days from the end of the 120-day period to file the complaint with an administrative law judge directly. A finding by an ALJ that the person named in the complaint has, in fact, engaged in an illegal act of employment discrimination will generally result in an order requiring the person to cease the unlawful practice. The order may also compel the respondent to hire or rehire the complainant and any other worker adversely affected by the violation, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for anyone to intimidate, threaten or retaliate against a person because the person has filed a complaint, participated in an investigation, or exercised or attempted to exercise any other right under these provisions.

PREEMPTION OF JURISDICTION — The Immigrant and Employee Rights Section will not accept any complaint regarding an unfair immigration-related employment practice if the same complaint has been filed with the Equal Employment Opportunity Commission under the Civil Rights Act of 1964, unless the charge has been dismissed by the EEOC as outside the scope of that law. Charges filed incorrectly with either agency will be forwarded to the other.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Immigrant and Employee Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530 (202-616-5594; toll-free 800-255-7688). This agency is responsible for investigating charges and prosecuting administrative complaints relating to unfair employment practices under the Immigration and Nationality Act. The agency's Special Counsel for Immigration-Related Unfair Employment Practices and the agency's hearing officers are authorized to examine evidence and subpoena witnesses in connection with the investigation of charges or any related hearing. Employers and other entities found out of compliance with the Act's anti-discrimination provisions are subject to civil money penalties of up to \$2,000 for each individual adversely affected by the first violation, and up to \$5,000 per individual for the second violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

■ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

STATUTORY CITATION: 29 USC §§ 651 - 678

RELATED REGULATIONS: 29 CFR Part 1928, Subpts. C and D

GENERAL SUMMARY: The Occupational Safety and Health Act generally requires employers to furnish their workers with employment and a workplace free from recognized hazards that cause or could cause death, harm or serious injury. More specifically, employers subject to the Act must comply with detailed safety and health standards adopted by the U.S. Department of Labor which are applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Among other agriculturally related safety and health regulations adopted by the labor department, farm employers who (1) have more than 10 non-family employees, or (2) have operated a temporary labor camp within the preceding 12 months, are required to comply with standards for the safety of employees operating or working around tractors and other farm equipment, briefly summarized here:

ROLL-OVER PROTECTIONS ON TRACTORS — Farm tractors must be properly equipped with structures and devices to protect workers against roll-over hazards. The standards include test procedures and performance requirements for protective frames and enclosures for wheel-type agricultural tractors.

SAFETY MEASURES ON OTHER AGRICULTURAL EQUIPMENT — The regulations prescribe both operating instructions and design specifications to safeguard operators of farm field equipment, stationary farm machinery, and cotton ginning equipment.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect workplaces, investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating safety of tractors and other on-farm agricultural equipment have been approved and are in effect in the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (FIELD SANITATION)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1928.110

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has developed and adopted regulations requiring certain agricultural employers to provide field workers with drinking water, toilet facilities and handwashing facilities at the place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Every farm operator or other agricultural establishment that has 11 or more employees on any given day in hand-labor operations in the field must provide the workers with the sanitation facilities described below, without cost to the employees. The employer is required to notify workers of the location of the facilities and afford them reasonable opportunities during the workday to use them.

POTABLE DRINKING WATER — Field workers are entitled to a sufficient amount of suitably cool, readily accessible drinking water which meets applicable state or federal standards for drinking purposes. The water provided must be dispensed in single-use drinking cups or by fountain; the use of common drinking cups or dippers is prohibited. Likewise, vessels used to store and dispense water must be kept covered, refilled daily (or more often, if necessary), and cleaned regularly.

TOILET AND HANDWASHING FACILITIES -

Required Equipment and Exception — Subject employers must provide one toilet and one handwashing facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Toilet and handwashing facilities are not required for employees who perform field work for a period of 3 hours or less during the day (including travel time to and from the field).

Distance Limitation — Sanitation equipment generally must be located within a 1/4-mile walk of each worker's location in the field. However, where the terrain precludes compliance with the distance limitation, the facilities must be placed at the point of closest vehicular access to the field. The toilet and handwashing facilities must be in close proximity to each other.

Design, Maintenance, and Supplies — Toilet facilities must be adequately ventilated and screened, must have self-closing doors, and must be constructed to assure privacy. Employers are required to maintain toilets and handwashing units in clean and sanitary condition, and to equip such facilities with an adequate supply of toilet paper, soap and single-use towels.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits the enforcement agency from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. The enforcement agency is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). On any farm or at any establishment subject to the field sanitation standards, this agency has authority to investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the U.S. Occupational Safety and Health Administration a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating field sanitation have been approved and are in effect in the following states: Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington.

HOUSING

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1910.142

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has developed and adopted regulations governing temporary labor camps, generally understood to mean employer-provided housing facilities for the seasonal use of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers operating a temporary labor camp must comply with specific standards covering the location and construction of such housing and the facilities provided therein.

SITE — Among other requirements, sites must be adequately drained, unsusceptible to periodic flooding, and located no closer than 200 feet to surface collections of water. Sites must be large enough to prevent crowding of structures and must be at least 500 feet from areas where livestock is kept.

CONSTRUCTION — The housing units must protect occupants from exposure to the elements. Sleeping rooms must contain at least 50 square feet of floor space per occupant and have ceilings at least 7 feet in height. Beds must be provided and spaced according to numerical limits on crowding. Floors, windows, doors, heating, and cooking facilities must meet specific rules of construction and safety.

WATER SUPPLY — An adequate and convenient water supply, approved by a state or local health authority, must be provided.

TOILET FACILITIES — An adequate number of toilet facilities in relation to the capacity of the camp must be provided, in accordance with space and design specifications.

SEWAGE DISPOSAL FACILITIES — All toilets and drains must be connected to a public sewer system, where available.

LAUNDRY AND BATHING FACILITIES — Laundry, handwashing, and bath or shower facilities, with hot and cold running water, must be provided in specified ratios, related to the camp's occupancy. Clothes-drying facilities must also be provided.

LIGHTING — Where electricity is available, light fixtures and electrical outlets must meet minimum requirements as to number and location.

REFUSE DISPOSAL — At least one garbage container, of a type approved by a state or local health authority, must be furnished for each family unit, within 100 feet of the unit. Garbage containers must be emptied when full, but no less often than twice a week.

KITCHEN AND FOOD SERVICE FACILITIES — Facilities and equipment used for preparing and serving meals must comply with specified food service standards.

INSECT AND RODENT CONTROL — Preventive pest control measures must be followed.

FIRST AID — Adequate and accessible first-aid facilities, approved by a public health authority, must be supplied and maintained in every camp, for emergency treatment of injuries.

COMMUNICABLE DISEASE REPORTING — The person in charge of the camp must report to the local public health authority all cases of communicable disease, food poisoning, and similar outbreaks.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect temporary labor camps, investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating temporary labor camps have been approved and are in effect in the following states: *Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington*.

WAGNER-PEYSER ACT

STATUTORY CITATION: 29 USC §§ 49 - 491

RELATED REGULATIONS: 20 CFR §§ 654.400 - 654.417

GENERAL SUMMARY: The Wagner-Peyser Act established the nationwide system of state-operated public employment offices. Under this law, the Secretary of Labor is authorized to adopt regulations necessary to assure the proper function of the state workforce agency network, including appropriate recruitment services for employers in need of personnel, and job search and placement services for job-seekers.

PROVISIONS APPLICABLE TO AGRICULTURE: No employer may use the federal-state employment service system (including local public employment offices) to recruit agricultural workers from places outside the area of intended employment unless certain conditions are met relating to employee housing. With respect to any housing the employer is required to provide or intends to provide under an interstate or intrastate job order, state agency recruitment services will be denied unless (1) the employer has signed an assurance of compliance, (2) a pre-occupancy housing inspection has been conducted, and (3) the state agency has determined that the housing meets the applicable federal standards outlined below.

HOUSING CONSTRUCTED AFTER APRIL 3, 1980 — Farm labor housing facilities constructed on or after April 3, 1980 (or for which a construction contract was signed after March 4, 1980) must meet the standards prescribed by the U.S. Occupational Safety and Health Administration for temporary labor camps, summarized in the preceding entry.

HOUSING CONSTRUCTED BEFORE APRIL 3, 1980 — Housing facilities constructed or under construction prior to April 3, 1980 (or for which a construction contract was signed prior to March 4, 1980) must meet either the OSHA temporary labor camp regulations referred to above, or the agricultural worker housing standards prescribed by the U.S. Employment and Training Administration. The ETA standards contain specifications in the following areas:

Housing Site — Sites must be well-drained and sanitary and must provide reasonable recreation space.

Water Supply — The facility must provide an adequate and convenient supply of water that meets state health standards.

Waste Disposal Facilities — There must be facilities for effective disposal of sewage.

Housing Structures — Housing must be structurally sound, in good repair and in sanitary condition. Sleeping areas must provide at least 50 square feet of floor space per occupant in family units and in single-bed dormitories, 40 square feet per occupant in dorms with double bunk beds, or 60 square feet per occupant in combined cooking, eating and sleeping areas. Units must also meet specifications regarding partitions, ceiling heights and window area.

Screening — All outside openings must be equipped with screens.

Heating — Heating devices must be provided if outside temperatures during periods of normal occupancy fall below 68 degrees F. Stoves and combustible-fuel heaters must be vented and comply with other prescribed safety standards.

Electricity and Lighting — All housing sites must be provided with electric service, and units must be equipped with safe and operable light fixtures and outlets.

Toilets — Toilets or privy seats, in the ratio of not less than one for each 15 occupants and located within 200 feet of each living unit, must be provided and must meet other numerical and qualitative standards.

Bathing and Laundry Facilities — Bathing and laundry facilities, supplied with hot and cold water under pressure, must be located within 200 feet of each living unit. Among other requirements, there must be at least one showerhead and one wash basin for every 15 persons.

Cooking and Eating Facilities — Cook stoves or similar equipment, as well as food preparation and storage space, must be furnished, in conformity with detailed criteria.

Garbage Facilities — Each unit must have nearby access to clean, fly-tight containers for the disposal of garbage and other refuse, in a minimum ratio of one such container for every 15 occupants. Provision must be made for collection at least twice a week.

Insect and Rodent Control — Housing and facilities must be free of insects, rodents and other pests.

Sleeping Facilities — Beds, cots or bunks, together with clean mattresses, must be provided for all occupants.

Safety and First Aid — All structures must be maintained in accordance with state or local fire and safety laws, must provide practical means of escape, and must be equipped with fire extinguishing and first-aid equipment. No flammable liquids or materials other than those for immediate household use may be stored in or around living areas, and agricultural pesticides and toxic chemicals may not be stored in proximity to the housing units.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3046). ETA monitors the operation of the federal-state public employment service system and is responsible for assuring that employers who use the system comply with conditions placed on intra-and interstate job orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In accordance with a formal written plan submitted annually by each of the 50 states and Puerto Rico, ETA delegates operation and supervision of public employment offices to the respective state agencies. Compliance with the ETA housing standards by employers using the employment service to recruit agricultural workers is the immediate responsibility of the designated state

workforce agency. With respect to a housing facility proposed to be used for farmworkers recruited through the employment service, the local workforce office serving the area where the housing is located is responsible for arranging the pre-occupancy inspection required under these provisions. If, on inspection, the housing does not meet the applicable standards outlined above, the local office must immediately remove the employer's job orders from intra- or interstate clearance, and if workers have been recruited against the orders, must attempt to locate and notify the appropriate workers or crew leaders and try to find comparable alternative employment for the workers.

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

STATUTORY CITATION: 29 USC §§ 1801 - 1872

RELATED REGULATIONS: 29 CFR Part 500

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act imposes a multitude of duties and restrictions on farm labor contractors, agricultural employers, agricultural associations and other entities, in part to curb chronic abusive employment practices detrimental to the agricultural labor force. In addition to addressing such issues as worker recruitment, transportation and wages, the Act contains explicit provisions regulating the safety and health of housing provided to migrant agricultural workers.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No facility or property may be occupied by any migrant agricultural worker unless a state or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards, and no person who owns or controls the housing may permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. If, however, a request for an inspection of the housing is made to the appropriate state or local agency at least 45 days before the date on which it is occupied and the agency has not conducted an inspection by then, the facility may be occupied without the certification.

COMPLIANCE BY HOUSING PROVIDERS — In general, any person who owns or controls a facility or real property used as housing for migrant agricultural workers is responsible for ensuring that the facility or property complies with applicable federal and state safety and health standards.

COMPLIANCE BY FARM LABOR CONTRACTORS — In their application for registration under the Act, farm labor contractors are required to identify each facility or property to be used to house any migrant farmworker. If a contractor owns or controls any such facility or property, there must be documentation submitted with the application showing that the housing has been certified for occupancy. A farm labor contractor may not house migrant farmworkers unless authorization to do so is indicated on the face of the registration certificate.

SPECIAL NOTES OR ADVISORIES

COMPLIANCE EXCEPTIONS — The obligation to comply with farm labor housing standards, and the prohibition against allowing occupancy without certification, do not apply to any person who, in the ordinary course of that person's business, regularly provides housing commercially to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

JOINT RESPONSIBILITY — If more than one person is involved in providing migrant worker housing (a farm labor contractor, for example, and a farm operator who uses the contractor's services and owns the housing where the contractor's crew members are living), both are legally responsible for ensuring that the housing meets applicable standards.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). As the agency responsible for registration of labor contractors and for enforcing compliance with the Act, the Wage and Hour Division has authority to investigate complaints or suspected violations of the Act's housing provisions. The agency may suspend or revoke a contractor's registration certificate and may impose penalties on contractors, employers and housing operators who are found to have housed migrant agricultural workers in violation of the Act. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Both the Occupational Safety and Health Administration and the Employment and Training Administration administer farm labor housing standards and are cooperatively involved in the enforcement of these provisions.

PRIVATE CIVIL ACTION — Without regard to enforcement action by the U.S. Department of Labor, anyone who is aggrieved by a violation of the Act may file suit against the person or persons responsible in federal court, using a private attorney or a public legal service provider.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR §§ 655.100 - 655.185 and 29 CFR Part 501

GENERAL SUMMARY: Any farming establishment seeking certification to employ temporary foreign agricultural labor under the so-called "H-2A" program is required to circulate a formal job offer for U.S. workers starting no earlier than 75 days and no later than 60 days before the work is expected to begin. If the employer's H-2A application is later approved, the U.S. and foreign workers hired by the employer pursuant to the job offer must receive a written work contract specifying the benefits and conditions of employment. Both the job offer and the work contract must contain certain minimum standards and guarantees, including requirements related to housing.

SPECIFIC TERMS AND CONDITIONS

ASSURANCE OF COST-FREE HOUSING — Every employer applying for the use of foreign agricultural workers must assure the availability of housing for any worker who is not reasonably able to return to his or her own residence each day, at no charge to the worker. The employer's obligation to provide cost-free housing extends not only to the foreign workers admitted to the U.S. under the H-2A application (if approved), but also to those domestic workers recruited prior to approval of the application, and to any U.S. workers hired by the employer thereafter to perform the same services in the same area. Furthermore, when it is prevailing local practice to provide domestic farmworkers with family-type housing, family housing must be provided to those U.S. workers recruited in connection with an H-2A job offer who request such housing for themselves and their families.

HOUSING STANDARDS AND INSPECTION — Housing facilities owned or operated by the employer must be inspected and found in full compliance with applicable ETA or OSHA farmworker housing standards prior to occupancy, or the employer's H-2A application will be denied. At the employer's option, the employer may arrange to house the workers in rental units or public housing which meets local, state or federal standards, but any charges for the use of such facilities must be paid by the employer. Deposits on bedding or similar incidentals related to housing may not be assessed against the workers, and only under certain conditions may the employer require reimbursement from workers found responsible for damages to housing or facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the mandatory work contract between H-2A employers and their foreign and U.S. workers, including the requirement to provide free worker housing. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. In general, each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the associated job offers comply with statutory requirements, including the offer of cost-free housing for the workers.

INSURANCE AND COMPENSATION

← FEDERAL UNEMPLOYMENT TAX ACT

STATUTORY CITATION: 26 USC §§ 3301 – 3311

GENERAL SUMMARY: The Federal Unemployment Tax Act imposes a tax on most employers across the country, which helps finance operation of the nation's unemployment insurance program. Federal UI taxes collected from employers are, in large part, distributed by formula to the states to offset the cost of administering the UI program, while taxes collected from employers by the state are used to pay unemployment benefits to individual claimants. Under the federal-state system, employers who are subject to federal UI taxes, and who pay state UI contributions under a state law that conforms to federal standards, receive credit for such payments against their federal tax liability.

With certain exceptions, employers are required to pay federal UI taxes if they (1) paid wages of \$1,500 or more during any calendar quarter in the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 or more different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast with the more stringent coverage criteria applicable to employers in other sectors, a farm operator or other agricultural employer is subject to federal unemployment insurance taxes only if the employer pays cash agricultural wages of \$20,000 or more in any calendar quarter of the current or preceding calendar year, or employs at least 10 agricultural workers in 20 different weeks in the current or preceding calendar year. Subject farm employers must pay federal UI taxes on behalf of covered employees with respect to the first \$7,000 in wages paid to each such worker during the year.

In turn, agricultural workers who are unemployed but who are available for work may qualify for UI benefits if they have been employed by one or more subject employers and meet the eligibility requirements for benefits under a state UI statute approved by the Secretary of Labor.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3032). ETA is responsible for reviewing state unemployment compensation laws to determine compliance with federal requirements and for overseeing state administration of UI claims, appeals and benefits. Immediate problems involving tax liability and compensation payments, however, must generally be addressed by the designated state agency.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710). Primarily through its district offices and regional service centers, IRS is responsible for the collection of federal UI taxes from subject employers and accordingly may involve itself in questions regarding federal tax liability and compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Unemployment insurance laws have been enacted in all 50 states and Puerto Rico. Most such statutes provide for coverage of only those agricultural workers employed by comparatively large agricultural establishments, to the extent required by the federal provisions outlined above, while workers in other states are insured even on small farms. For a summary of state coverage criteria and identification of the state administering agency, see the first entry under the heading "Insurance & Compensation" for the particular state in question.

■ SOCIAL SECURITY ACT; FEDERAL INSURANCE CONTRIBUTIONS ACT

STATUTORY CITATION: 42 USC §§ 401 - 434; 26 USC §§ 3101 - 3128

GENERAL SUMMARY: Among many other statutory purposes, the Social Security Act authorizes monthly cash payments to insured workers for long-term disability and retirement, as well as cash benefits for their survivors. Social Security benefits are financed through a tax on wages, authorized by the Federal Insurance Contributions Act and paid by employers, employees and the self-employed.

With a multitude of narrow exceptions, employers and employees are required to pay FICA taxes on all cash and non-cash wages paid to an employee, up to a current wage limit of \$127,200 per year (2017).

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to pay FICA taxes on behalf of their agricultural employees. On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must pay FICA taxes on that worker's wages. The employer's share of the tax is currently 7.65 percent of each covered worker's wages, up to a taxable wage limit of \$127,200 per worker per year.

Exception — The \$2,500 wage threshold referred to above does not include wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

WORKER CONTRIBUTIONS — Workers who perform agricultural services for an employer whose annual expenditures for agricultural labor amount to at least \$2,500, or who receive \$150 or more in agricultural wages from the employer, are required to pay FICA taxes equal to the employer's share, or 7.65 percent of their wages. The employer must deduct the worker's share of FICA taxes from the worker's earnings each time wages are paid, and must regularly deposit the FICA taxes in a federal depository bank or forward them to the Internal Revenue Service. By early the following year, the employer must report the amount of wages paid and FICA taxes withheld to the Social Security Administration, for proper credit to the worker's earnings record. Compensation paid to the worker in any form other than cash (such as housing or transportation, for example) is not considered wages for Social Security purposes.

Exception — The \$2,500 wage threshold referred to above does not include wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

BENEFITS — A worker's eligibility for Social Security benefits, as well as the amount of those benefits, depends on the number of quarters of coverage the worker has accumulated as an employee. Workers may accrue up to four quarters of coverage in a year, provided their wages from FICA-covered employment equal or exceed the minimum required earnings in every quarterly period; in 2017, a worker must have at least \$1,300 in covered earnings to receive credit for a quarter of coverage. Farmworkers who have sufficient quarters of coverage and meet other eligibility requirements may qualify for full or reduced Social Security benefits, as determined through regular application processing procedures.

In general, disability benefits are payable only in the case of a disability that is expected to last at least 12 months or can be expected to result in death, and only when the worker meets the required period of covered employment. Retirement benefits are generally payable beginning at age 62, provided the worker has at least 40 quarters of coverage, or one quarter of coverage for each calendar year after age 21 and before age 62.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where work is performed through the auspices or under the supervision of a crew leader or labor contractor, the question of who, if anyone, is responsible for collecting and matching FICA contributions on the worker's wages depends on the relationship between the crew leader or contractor and the farm operator. Unless the crew leader has entered into a written agreement with the farmer, under which the crew leader is designated as the farmer's employee, as long as the workers receive their pay from the crew leader, the workers are deemed to be employees of the crew leader. In such cases, the crew leader is responsible for withholding and paying the FICA contributions, if applicable.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710). Through its district offices, IRS is responsible for enforcing employer compliance with the Federal Insurance Contributions Act, which includes both the determination of the employer's liability for payment of FICA taxes and collection of the taxes themselves. In response to a complaint or on the agency's own initiative, personnel from the IRS district office may inspect and copy an employer's payroll records, question employers and employees, and take related action to determine the employer's tax liability. Similarly, the district office may investigate apparent or alleged failure of an employer to deposit or forward FICA taxes withheld from a worker's earnings, and may enforce civil penalties and bring criminal charges against an employer for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Social Security Administration, U.S. Department of Health and Human Services, Baltimore, Maryland 21235 (410-965-0100). The Social Security Administration is responsible for properly crediting to the worker's earnings record the wages reported by the employer on Form W-2, a copy of which must be filed with the agency, and a duplicate forwarded to the worker, by January 31 following the end of the calendar year being reported. This agency also has charge of processing applications and determining eligibility for Social Security benefits. Accordingly, local Social Security offices can provide assistance to workers who wish to apply for benefits or have a question concerning their earnings record or any other aspect of Social Security. Offices can be located by phone, at 800-772-1213 (toll-free), or online at https://secure.ssa.gov/ICON/main.jsp#officeResults.

LABOR CONTRACTORS AND WORKER RECRUITMENT

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

STATUTORY CITATION: 29 USC §§ 1801 – 1872

RELATED REGULATIONS: 29 CFR Part 500

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act provides for the registration of farm labor contractors, imposes restrictions on their activities, and prescribes requirements that farm labor contractors, agricultural employers, agricultural associations and others must follow for the protection of migrant and seasonal farmworkers.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — In general, no person may, for a fee or other compensation, recruit, solicit, hire, employ, furnish or transport any migrant or seasonal agricultural worker unless the person has a certificate of registration issued by the U.S. Department of Labor, specifying which farm labor contracting activities that individual is authorized to perform; farm operators, agricultural associations and their employees are not required to register, but are subject to other requirements and restrictions under the Act. Registered farm labor contractors and their registered assistants must carry their registration certificates at all times while engaging in farm labor contracting activities and must, when so requested, show the certificate to all persons with whom they intend to deal as a farm labor contractor.

CONFIRMATION OF REGISTRATION — No one may use the services of a farm labor contractor to supply any migrant or seasonal agricultural worker without first determining that the contractor has a valid registration certificate which authorizes the activity for which the contractor is utilized.

MIGRANT AGRICULTURAL WORKER PROTECTIONS — Every farm labor contractor, agricultural employer and agricultural association that employs any migrant agricultural worker (those who work seasonally or temporarily and who are required to be absent overnight from their permanent place of residence) must comply with specific duties and responsibilities, some of which are summarized as follows:

Disclosure of Information — Every contractor, employer or association that recruits any migrant worker for employment must, at the time of recruitment, provide the worker with a written statement specifying (1) the place of employment, (2) the wage rates to be paid, (3) the crops and crop activities in which the worker may be employed, (4) the period of employment, (5) the transportation, housing and any other benefits to be provided, as well as the cost to be charged for each of them, (6) the existence of any strike or similar labor unrest at the workplace, (7) the existence of any arrangement under which the contractor or the employer will receive a commission or other benefit from stores or other establishments as a result of sales to the workers, and (8) whether state workers' compensation is provided and, if so, related workers' comp insurance information.

Posting — Contractors, employers and associations that employ any migrant worker must post conspicuously at the place of employment a poster outlining the rights and protections afforded by the Migrant and Seasonal Agricultural Worker Protection Act, and, whenever housing is provided to the workers, the contractor, employer or association must post or furnish each worker a written statement of the terms and conditions of occupancy.

Payroll Records — Farm labor contractors, farm employers and farm associations that employ any migrant worker must keep detailed records of each worker's pay rate, piecework units earned (if paid on a piecework basis), hours worked, total pay period earnings, the purpose and amount of each deduction made from the worker's pay, and net pay. Payroll records must be preserved for at least 3 years.

Payment of Wages — Migrant farmworkers must receive their wages when due, but in no case less often than every 2 weeks or semi-monthly. At the time of payment, each migrant worker employed must receive an itemized written pay statement for the period covered, showing the same information required to be kept in the payroll record, as described above.

Compulsory Purchases — No farm labor contractor, agricultural employer, or agricultural association may require any migrant worker to purchase goods or services solely from the contractor, employer or association.

Safety and Health of Housing — The Act prescribes specific conditions for the provision of housing to migrant farmworkers, including requirements for pre-occupancy inspection and certification (see entry, U.S. — Housing — Farm Labor Housing Standards).

SEASONAL AGRICULTURAL WORKER PROTECTIONS — Farm labor contractors, agricultural employers and agricultural associations that employ seasonal farmworkers (those who work seasonally or temporarily, but are not required to be absent overnight from their permanent residence) must comply with essentially the same disclosure, posting, recordkeeping and wage payment requirements, and observe the ban on compulsory purchases, applicable to the employment of migrant farmworkers, as described above.

FALSE OR MISLEADING INFORMATION — In making the information disclosures referred to above, no contractor, employer or association subject to the Act may knowingly provide false or misleading information to any migrant or seasonal worker concerning the terms, conditions or availability of employment.

LANGUAGE REQUIREMENTS — The information required to be disclosed to migrant and seasonal workers under the Act must be furnished in writing, either in English or in the language most easily understood by the workers involved.

MOTOR VEHICLE SAFETY — The transportation of migrant and seasonal farmworkers by farm labor contractors, agricultural employers and agricultural associations is subject to safety and other standards prescribed in the Act, including requirements for insurance coverage (see entry, U.S.— Transportation — Farmworker Transportation Safety).

COVERAGE EXEMPTIONS — Among other, more narrow exceptions, the Migrant and Seasonal Agricultural Worker Protection Act does not apply to:

- (1) Any individual who engages in farm labor contracting activity on behalf of a farm or other agriculturally related establishment which is owned or operated by the individual or an immediate family member, and when the contracting activity is performed only for that establishment and exclusively by that individual or family member.
- (2) Any business or individual employer (other than a farm labor contractor) who did not use more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (3) Any person who engages in farm labor contracting activity solely within a 25-mile radius of the person's permanent place of residence, only in that one state, and for not more than 13 weeks a year.
- (4) Any labor organization or union.

SPECIAL NOTES OR ADVISORIES

JOINT RESPONSIBILITY — Generally, the workers in a farm labor contractor's crew are considered jointly employed by the farm labor contractor and the farmer who is using their labor, if the farmer has the power to direct, control or supervise their work or to determine pay rates and the method of payment. In the event that a farm labor contractor fails to comply with the disclosure, posting and wage payment requirements outlined above, the farmer is legally responsible for compliance.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). Officers of the Wage and Hour Division have authority under the Act to conduct investigations, and consequently they may enter and inspect workplaces (including housing and vehicles), view and copy employment records, and question farm labor contractors, employers and other parties, either in response to a specific complaint or otherwise. The agency may impose civil penalties and refer violations for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The Secretary of Labor may delegate enforcement responsibilities to a state agency upon federal approval of a state plan which describes the functions to be performed by the state agency and the methods to be followed and resources to be devoted to performing those functions. Using that authority, the labor secretary has delegated to these states the responsibility for receiving and processing applications for farm labor contractor certificates, and for issuing certificates to qualified applicants: Florida, New Jersey, and Virginia.

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, as amended in 1986, authorizes the importation of non-immigrant foreign workers into the United States to perform temporary or seasonal agricultural labor, under conditions prescribed in Section 216 of the Act.

SPECIFIC TERMS AND CONDITIONS

INITIAL RECRUITMENT OF DOMESTIC WORKERS — No sooner than 75 days and no later than 60 calendar days before the first date on which a temporary or seasonal agricultural operation is expected to begin, a grower or growers' association that anticipates a shortage of U.S. workers and wishes to apply for temporary foreign labor under the so-called "H-2A" program must submit a formal job offer to the U.S. Department of Labor and the state employment service, and begin affirmative efforts to locate U.S. workers for the jobs described in the offer. Until such time as the need for foreign workers is certified and H-2A workers have departed for the place of employment, active recruitment of domestic labor must continue, including the placement of advertisements in general-circulation newspapers, and in a language other than English if deemed appropriate by the employment service.

EXTENDED RECRUITMENT OF DOMESTIC WORKERS — From the time H-2A workers depart for the place of employment until 50 percent of the specified employment period has elapsed, the employer must hire any qualified U.S. worker who applies for any of the positions for which the H-2A workers were approved. Moreover, no U.S. worker may be rejected for or terminated from such employment for other than a lawful job-related reason, and the employer must report every rejection and termination to the local employment office. The "50 percent rule" does not, however, apply to any farm operator or other H-2A employer who did not use more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year and who is not associated with other employers applying for or utilizing H-2A workers.

CONTENTS OF JOB OFFER — Among other elements, an H-2A job offer must contain certain minimum standards and guarantees, summarized in brief below, all of which must be incorporated into a written work contract and furnished to each worker no later than the first day of employment. Both the job offer and the contract must afford U.S. workers the same benefits, wages and working conditions as their H-2A counterparts.

Pay Rates — For every hour on the job in any pay period, each worker is entitled to receive no less than (1) the federal minimum wage, (2) the state minimum wage, (3) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, or (4) the prevailing wage rate, whichever of the four figures is highest.

Guaranteed Paid Workdays — In general, each U.S. and H-2A worker employed in comparable jobs by an H-2A employer is guaranteed employment for at least 3/4 of the workdays in all periods during which the work contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay the worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays.

Wage Payments, Deductions, and Statements — Employers who utilize temporary foreign agricultural workers must pay both their foreign and U.S. workers at least twice a month, or more often if such is the prevailing practice in the area of employment. Employers are generally permitted to withhold from a worker's pay only those deductions that are required by law or are otherwise reasonable, provided the non-mandatory deductions are spelled out in the contract. On or before each payday, the employer must provide each worker with written documentation showing (1) the worker's total earnings for the pay period, (2) the hourly wage or piece rate, (3) the hours of employment offered to the worker and the hours actually worked, (4) each deduction from the worker's pay and its purpose, and (5) the worker's daily piecework production if paid on a piecework basis.

Workers' Compensation — At no cost to the worker, each H-2A employer is obligated to obtain workers' compensation or equivalent insurance to cover medical expenses and related benefits in the event of a worker's injury on the job or occupational disease.

Transportation — Each foreign or domestic worker who completes 50 percent of the work contract period is entitled to reimbursement for costs incurred by the worker for transportation and meals between the place from which the worker has come to work for the employer and the place of employment; transportation and meal costs must be advanced to the worker prior to the trip whenever it is common practice for non-users of foreign labor in the same occupation and the same area to do so. Likewise, if the worker completes the contract period, the employer is obligated to provide or pay for the worker's transportation and daily subsistence back to the place of origin or to the next place of employment. During the course of the contract, the employer must furnish transportation between the worker's living quarters and the worksite, without cost, if the worker is unable to return to his or her own home within the same day.

Housing — To those workers who are not reasonably able to return to their residence each day, the employer must provide housing without cost to the worker. Housing facilities owned or operated by the employer must meet applicable ETA or OSHA standards, while rental units or public housing must generally comply with applicable local, state or federal standards. When it is prevailing local practice to provide domestic farmworkers with family-type housing, family housing must be provided to those U.S. workers employed under an H-2A work contract who request it for themselves and their families.

Meals — An H-2A employer must either serve the workers three meals a day or furnish free and convenient cooking facilities to enable the workers to prepare their own meals. The cost of employer-provided meals may be assessed against the workers, but meal charges may generally not exceed the limit prescribed by regulation (currently \$10.64 per day).

Supplies and Equipment — Unless it is common practice in the particular locality and crop operation for workers to provide their own, the employer must furnish all supplies, tools and other equipment required to perform the assigned tasks, without any charge or deposit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is responsible for enforcing compliance with the required work contracts between certified H-2A employers and their foreign and domestic employees performing services under those agreements. When investigation discloses evidence of a violation, the Division may impose penalties, seek injunctive relief, and order specific performance of contractual obligations, including recovery of unpaid wages. Each violation of the work contract committed against a worker carries a maximum civil fine of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). OFLC is responsible for processing applications by agricultural employers seeking temporary foreign workers, and for certifying the number of such workers needed, if any. It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certification and during the first half of the contract period, that the associated job offers comply with statutory and regulatory requirements, and that employers refrain from using the H-2A program to replace farmworkers who are on strike or otherwise involved in a labor dispute. Non-compliance with pre-certification recruitment requirements may result in delay or denial of the H-2A application, and an employer's failure to abide by the terms and conditions of certification may lead to denial of all subsequent petitions for foreign agricultural labor for a period of up to 3 years.

LABOR RELATIONS AND COLLECTIVE BARGAINING

NATIONAL LABOR RELATIONS ACT

STATUTORY CITATION: 29 USC §§ 151 – 169

GENERAL SUMMARY: The National Labor Relations Act affirms the right of most U.S. workers to full freedom of association, self-organization and representation of their own choosing, for the purpose of negotiating terms and conditions of their employment. This law defines certain unfair labor practices by both employers and labor organizations, establishes election procedures to determine the workers' wishes regarding union representation for collective bargaining purposes, and prescribes legal mechanisms for preventing unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: The National Labor Relations Act **does not apply** to any individual employed as an agricultural laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — National Labor Relations Board, Washington, D.C. 20570. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

● FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

STATUTORY CITATION: 7 USC §§ 136 – 136y

RELATED REGULATIONS: 40 CFR Parts 156 and 171

GENERAL SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (1) establishes standards for the registration and labeling of pesticide products, (2) requires the certification of commercial and private applicators of restricted-use pesticides, (3) imposes recordkeeping duties on certified commercial applicators, and (4) forbids applicators from engaging in certain prohibited acts. FIFRA gives the administering agency broad authority to prescribe regulations to implement and enforce the Act.

SPECIFIC TERMS AND CONDITIONS

PESTICIDE LABELING — Every pesticide product made, sold or used in the United States must be labeled in accordance with standards prescribed in the Act. Among other required information, the label must contain (1) a statement of ingredients, (2) a statement of the use classification (general, restricted, or both) under which the product is registered, (3) the name and address of the manufacturer or registrant, and (4) if the product contains any highly toxic substance, the skull-and-crossbones symbol, the word "Poison" in red letters, and a statement of practical treatment in case of poisoning.

CERTIFICATION OF APPLICATORS — Any individual who uses or supervises the use of a restricted-use pesticide must be certified to do so, either by the U.S. Environmental Protection Agency or by a state agency designated for that purpose under a federally approved plan for applicator certification. As described in brief below, each applicant for certification must demonstrate competency in the use and handling of pesticides.

Commercial Applicators — All commercial-class applicants (which include persons who, for compensation, use or supervise the use of restricted pesticides in the production of agricultural commodities) must receive a passing score on a written examination covering (1) pesticide labeling and labeling comprehension, (2) safety hazards and corresponding precautions and first-aid procedures, (3) the environmental consequences of the use and misuse of pesticides, (4) recognition and biology of pest organisms, (5) pesticide types and characteristics, (6) pesticide equipment, (7) application techniques, including prevention of drift, (8) pesticide laws and regulations, (9) the responsibilities of supervisors of non-certified applicators, and (10) professionalism in pesticide-related security and communication. Applicants seeking certification as commercial agricultural pest control applicators must, in addition, evidence practical knowledge of crops and the particular pests commonly associated with each crop, soil and water problems, pre-harvest application intervals, re-entry intervals, and the potential for environmental contamination, non-target injury, and community problems resulting from the use of pesticides in agricultural areas.

Private Applicators — Applicants for certification as private applicators (which include agricultural producers who use or supervise the use of restricted-use agricultural pesticides on their own property, or on another person's property if such services are not performed for hire) must demonstrate practical knowledge of agricultural pest control and the use of restricted pesticides. These competencies include (1) understanding product labels and labeling information, (2) common routes and symptoms of pesticide exposure, precautions for preventing pesticide injuries, and procedures for responding to pesticide accidents, (3) the potential environmental consequences of pesticide misuse, (4) identification and effective control of agricultural pests, (5) the characteristics of pesticides, (6) the types, use, maintenance and calibration of pesticide equipment, (7) application methods, (8) state and federal pesticide laws and regulations, (9) the responsibilities of supervisors of non-certified applicators, (10) stewardship in pesticide-related security and communication, and (11) knowledge of ag-specific pests, avoiding contamination of ground and surface water, and understanding of pre-harvest and restricted-entry intervals.

RECORDKEEPING — Every certified applicator of restricted-use pesticides is required to maintain true and accurate records of the use of restricted-use pesticides, including (1) the name and address of the person for whom the pesticide was applied, (2) the location of the pesticide application, (3) the target pest, (4) the specific crop and site to which the product was applied, (5) the date and time of application, (6) the trade name and EPA registration number of the pesticide applied, (7) the dosage used, and (8) the amount of product disposed of, method of disposal, date of disposal, and location of the disposal site. Commercial applicators must make such records available for inspection and copying by representatives of the enforcement agency for a period of at least 2 years from the date of the pesticide's use.

PROHIBITED ACTS — Among other unlawful activities, pesticide applicators in all classifications are forbidden from using any registered pesticide in a manner inconsistent with its labeling, failing or refusing to keep required records, making false records or reports, failing to comply with any restrictions in a duly issued certificate, or violating any provision of the Act or the regulations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "Pesticides & Agricultural Chemicals" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090). In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (AERIAL APPLICATOR CERTIFICATION)

STATUTORY CITATION: 7 USC §§ 136 - 136y

RELATED REGULATIONS: 40 CFR Part 171

GENERAL SUMMARY: Under rulemaking authority granted by the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency has adopted standards regulating the certification of commercial and private applicators who use or supervise the use of restricted-use pesticides applied by aircraft.

SPECIFIC TERMS AND CONDITIONS

In addition to satisfying the certification requirements applicable to all categories of pesticide applicators, as outlined in the previous entry, individuals seeking certification to apply restricted-use pesticides from the air — or to supervise aerial pesticide operations — are required to demonstrate practical knowledge of pest problems and pest control practices, including (among others) the following:

- (1) Labeling requirements and restrictions specific to aerial application of pesticides.
- (2) How to choose, calibrate and maintain aerial application equipment.
- (3) Weather-related factors to consider before and during aerial application.
- (4) Methods for minimizing off-target pesticide drift.
- (5) Competency in performing aerial applications that avoid drift and assure individual and public safety.

Private applicators who use or supervise the use of restricted-use pesticides applied by fixed- or rotary-wing aircraft are subject to very similar certification requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "Pesticides & Agricultural Chemicals" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090). In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

FEDERAL AVIATION ACT OF 1958

STATUTORY CITATION: 49 USC §§ 44701 - 44702

RELATED REGULATIONS: 14 CFR Part 137

GENERAL SUMMARY: The Federal Aviation Act regulates the nation's air commerce and establishes controls over airspace, air traffic and navigation, primarily in the interest of public safety and national defense.

SPECIFIC TERMS AND CONDITIONS: Under the Act's rulemaking authority, the administrator of the Federal Aviation Administration has adopted regulations governing agricultural aircraft operations in the U.S. and the issuance of commercial and private agricultural aircraft operator certificates for such operations.

CERTIFICATION — With few exceptions, no one may conduct agricultural aircraft operations (including the application of pesticides and other agricultural chemicals) without an agricultural aircraft operator certificate issued by the FAA. Prerequisites for a certificate include all of the following:

- A commercial or private pilot's license.
- An airworthy and certificated aircraft.
- (3) Passage of a knowledge test, covering (a) pre-flight preparations, (b) safe handling of pesticide products and proper disposal of used containers, (c) general effects of exposure to such products and precautions to be observed in their use, (d) symptoms of poisoning, emergency treatment measures and location of poison control centers, (e) performance capabilities and limitations of the aircraft to be used, and (f) safe flight and pesticide application procedures.
- (4) Passage of a flight skill test, which includes certain prescribed maneuvers commonly performed in aerial pesticide applications.

A facsimile of the agricultural aircraft operator certificate issued to a pilot must be carried on each aircraft the pilot uses for aerial pesticide application purposes. The original certificate, as well as the registration and airworthiness certificates issued for the aircraft itself, must be kept available for inspection at the operator's base location.

OPERATING RULES — Pilots dispensing pesticides and other agricultural chemicals must follow specific rules covering aircraft design, equipment, personnel, and operating procedures. Among other restrictions, no one may dispense any material or substance from an aircraft in a manner that creates a hazard to persons or property on the ground, and aerial applicators may not apply any pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act for a use other than that for which it is registered, or contrary to any safety instructions or use limitations on its label.

RECORDS AND REPORTS — Every holder of a commercial agricultural aircraft operator certificate must maintain current records showing (1) the name and address of each person for whom agricultural aircraft services were provided, (2) the date each service was performed, (3) the name and quantity of the pesticide or similar product dispensed for each operation conducted, and (4) the name, address and certificate number of each pilot involved in the operation and the date each pilot met the knowledge and skill requirements described above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Division, Federal Aviation Administration, U.S. Department of Transportation, Washington, D.C. 20591 (202-267-5158). Anyone with knowledge of a violation of the agricultural aircraft operations regulations may report it to any FAA regional or district office. The FAA is authorized to conduct investigations, hold hearings, issue subpoenas, require the production of relevant documents, records and property, and take evidence. Individuals or firms found in violation are subject to civil money penalties, seizure of aircraft, suspension or revocation of certification, and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

● FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (WORKER SAFETY)

STATUTORY CITATION: 7 USC §§ 136 – 136y

RELATED REGULATIONS: 40 CFR Part 170

GENERAL SUMMARY: Under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency has adopted safety standards for the protection of workers performing agricultural crop production activities, key provisions of which are summarized below. The regulations require agricultural employers, as well as employers of commercial pesticide handlers, to provide information and protections to field workers, pesticide handlers and others when pesticides are used on agricultural establishments in the production of agricultural plants.

SPECIFIC TERMS AND CONDITIONS

AGRICULTURAL EMPLOYER DUTIES —

Information and Directions — Agricultural employers and farm managers must assure that pesticides are used in a manner consistent with each product's labeling, and must provide their field workers and pesticide handlers with information and directions sufficient to assure they receive the protection of these provisions. Farm employers must also provide any labor contractor or other person who supervises any workers or handlers with information and directions necessary for compliance with these provisions.

Emergency Assistance — If, within 72 hours after commencement of employment, a farmworker or pesticide handler has experienced a potential pesticide exposure or shows symptoms of such exposure and needs emergency medical attention, the employer is obligated to (1) provide transportation from the farm or worker housing area to an appropriate medical care facility for treatment, and (2) provide relevant information to the medical personnel treating the worker, including the identity of the pesticide involved and the related safety data sheet.

DISPLAY OF PESTICIDE SAFETY INFORMATION — If workers or handlers are at an agricultural establishment where a pesticide product has been used or a restricted-entry interval has been in effect within the last 30 days, the farm employer or manager is required to display and maintain certain pesticide safety information, in a format that workers can understand and at a location easily accessible to them. Among other items, the prescribed information must include (1) recommended clothing, bathing and laundering practices to minimize pesticide exposure, (2) decontamination procedures in case of accidental exposure, and (3) emergency medical contact information.

DISPLAY OF PESTICIDE APPLICATION AND HAZARD INFORMATION — If workers or handlers are at an agricultural establishment where a pesticide product has been used or a restricted-entry interval has been in effect within the last 30 days, the farm employer is required to display prescribed information related to each pesticide product used, and to make the information accessible to workers and handlers during normal work hours. Among other things, the information must include (1) a copy of the product's safety data sheet, (2) the name, EPA registration number and active ingredients of the product, (3) the location and description of the area treated, (4) the dates and times the application started and ended, and (5) the duration of the restricted-entry interval specified on the product label. The pesticide application and hazard information must be displayed no later than 24 hours after the end of the application; it must remain displayed until at least 30 days after the end of the last restricted-entry interval, or until workers or handlers are no longer at the farm establishment.

RETENTION OF RECORDS — Whenever application and hazard information is required to be posted, the agricultural employer must keep the information for 2 years after the date the restricted-entry period expired. A worker or handler employed at the establishment while the information was required to be displayed is entitled to see or make a copy of the information within 15 days of requesting access to it.

PROHIBITED ACTIONS — It is unlawful for employers of agricultural workers and employers of pesticide handlers to retaliate against a worker for attempting to comply with these provisions, or to prevent or discourage a worker from complying or attempting to comply.

AGRICULTURAL WORKER PROTECTION REQUIREMENTS —

Pesticide Safety Training — In general, before any worker enters an area where a pesticide has been applied or a restricted-entry period has been in effect within the last 30 days, the employer must assure that the worker has received prescribed training within the last 12 months. The training may be oral or in audio-visual format, but it must be presented by a qualified trainer and in a manner the worker can understand. Among other topics, the information presented must include (1) where and in what form pesticides may be encountered during work activities, (2) the hazards of exposure, (3) the routes through which pesticides can enter the body, (4) signs and symptoms of common types of pesticide poisoning, (5) emergency first aid for pesticide injuries or poisoning, (6) routine and emergency decontamination procedures, (7) how to obtain emergency medical care, (8) the hazards from pesticide residues on clothing, (9) warnings about taking pesticides or pesticide containers home, and (10) the responsibility of agricultural employers for providing the information and protections outlined above. Beginning January 1, 2018, the training must also include instruction regarding use of protective clothing and equipment, bathing and laundering procedures, and other practices that help reduce the risk of pesticide exposures and illnesses.

Entry to Treated Areas — After a pesticide application to an outdoor agricultural area, the farm owner or manager may not allow or direct anyone other than an appropriately trained and equipped pesticide handler to enter or before the restricted-entry interval specified on the pesticide label has expired and all treated area warning signs have been removed or covered.

Notice of Applications — Farm employers must provide workers with appropriate and timely notice of impending pesticide applications. In the case of a pesticide whose label requires both posted notification at the site of the treatment and oral notification of the workers, the employer must:

(1) Post signs of prescribed size that include the signal words "Danger," "Pesticides," and "Keep Out," in English and a non-English language read by the largest group of non-English-reading workers. The signs must be posted no sooner than 24 hours before the scheduled pesticide application, remain posted throughout the application and any restricted-entry period, and be removed within 3 days after the application or any restricted-entry period ends.

(2) Give workers oral warning, in a manner they can understand. Workers on the premises must receive the warning before the application begins; otherwise, the warning must be given at the start of the workers' first work period during which the application is taking place or the restricted-entry interval is in effect. The warning must include the location of the treated area, the time during which entry is restricted, and instructions not to enter the treated area until the restricted-entry period has expired.

Where the pesticide label does not require double notification, outdoor application of a pesticide with a restricted-entry interval of more than 48 hours generally requires posted notification only; in the case of products with restricted-entry intervals of 48 hours or less, the employer must notify workers of the application either by posting prescribed warning signs or giving prescribed oral notification.

Decontamination Supplies for Workers — For any agricultural worker who is performing an activity in an area where a pesticide was applied and who comes into contact with soil, water or plants treated with the product, the farm employer or manager is required to provide decontamination supplies for routine washing and emergency decontamination, including at least one gallon of water per worker and a supply of soap and single-use towels. These materials must be located no more than 1/4 mile from where the workers are working, or at the nearest place of vehicular access outside the treated area.

AGRICULTURAL PESTICIDE HANDLER PROTECTION REQUIREMENTS — Workers who are employed to mix, load, transfer or apply pesticides, or who deal with pesticide application equipment or assist with pesticide applications (including acting as flaggers), are covered by protections very similar to those outlined above that apply to agricultural workers. These include, among other things, requirements for safety training, knowledge regarding labeling requirements associated with each pesticide product used, the prohibition against exposing workers and others to pesticides by contact, the provision and use of personal protective equipment, and the provision of decontamination and eye-flushing supplies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "Pesticides & Agricultural Chemicals" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090). In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (HAZARD COMMUNICATION)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1910.1200

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has adopted regulations which, among other things, require most employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job, through the use of substance labeling, safety data sheets, and employee information and training programs.

PROVISIONS APPLICABLE TO AGRICULTURE: All agricultural employers who are subject to the Act (see special note below), and who have employees who may be exposed to hazardous chemicals under normal working conditions, are obligated to establish a hazard communication program for their employees. The hazard communication program, which must be put in writing by the employer and made available to workers on request, must include the elements described in brief as follows.

HAZARDOUS CHEMICAL LIST — For each individual work area or for the farm or other establishment as a whole, employers must compile a list of the hazardous chemicals known to be present.

LABELING OF CONTAINERS — As a general rule, employers are required to ensure that each container of hazardous chemicals in the workplace (including pesticides) is properly labeled with identifying information and hazard warnings. Pesticide products that are subject to the labeling requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and the corresponding labeling regulations of the U.S. Environmental Protection Agency do not require workplace labeling or hazard warnings, but agricultural employers must see that the existing product labels remain intact and legible.

SAFETY DATA SHEETS — For each pesticide or other hazardous chemical at the workplace, employers must obtain a safety data sheet from the product's manufacturer or distributor, and keep the data sheet at a location that is readily accessible to their employees. A safety data sheet is a written document that contains prescribed information about the chemical substance to which it pertains. Among other required components, each data sheet must show (1) a product identifier, (2) the product's hazard classification, (3) the chemical and common names of each ingredient, (4) first-aid information, including routes of exposure, symptoms, and recommended treatment, (5) fire-fighting measures, (6) accidental-release measures, (7) precautions for safe handling and storage, (8) recommended exposure limits, (9) physical and chemical properties, (10) stability and reactivity, and (11) toxicological information.

EMPLOYEE INFORMATION — Covered employers are legally responsible for informing workers, at the time of their initial assignment and whenever a new hazard is introduced into their work area, of (1) the hazard communication regulatory requirements, (2) the operations in their work area where hazardous chemicals are present, and (3) the location of the hazardous chemical list and safety data sheets described above.

EMPLOYEE TRAINING — Employers must provide related training to each new employee, and to each employee affected by a new hazardous chemical at the workplace. At a minimum, training must include (1) methods that may be used to detect the presence of a hazardous chemical on the job, (2) the physical and health hazards of each hazardous substance to which the worker may be exposed, (3) measures the worker can take to protect against those hazards, and (4) an explanation of labeling, the safety data sheets, and other aspects of the employer's hazard communication program.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect workplaces, examine the written materials required to be made available by employers under these regulatory provisions, question employees, and conduct other investigative activities, either in response to a worker's complaint or on its own initiative. Whenever violations are confirmed, the agency is authorized to issue citations, propose and enforce administrative penalties, and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions covering hazard communication in agricultural workplaces have been approved and are in effect in the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (ANHYDROUS AMMONIA)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1910.111

GENERAL SUMMARY: Under authority of the Occupational Safety and Health Act, the U.S. Department of Labor has developed and implemented standards for the storage and handling of anhydrous ammonia, which is a hazardous and commonly used agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: Agricultural employers subject to the Act (see special note below) must comply with the requirements outlined below and take steps to assure that employees immediately involved in the use of ammonia and related equipment observe precautions to protect their own safety and the safety of co-workers.

CONSTRUCTION OF AMMONIA CONTAINERS — All containers used for the transportation, storage or application of anhydrous ammonia, as well as the fittings, valves and other appurtenances connected to such containers, must be built in accordance with detailed specifications prescribed in the regulations, and containers and valves must be properly marked with certain identifying information.

ON-FARM EQUIPMENT — The regulations require that farm vehicles used to transport ammonia in containers of 1,200-gallon capacity or less be equipped with at least 5 gallons of clean water for use in case of accidental contamination of a worker. Ammonia tanks must be safely mounted on the vehicle or trailer, and trailers must be securely attached to the vehicle drawing them. Similarly, containers of 250-gallon capacity or less that are mounted on farm equipment and used for the application of ammonia in the field must be securely attached and fitted with a level gauge and certain prescribed valves. All ammonia tanks must be marked with the words "Caution — Ammonia," in letters at least 4 inches high.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect workplaces, question employees, and conduct other investigative activities, either in response to a worker's complaint or on its own initiative. Whenever violations are confirmed, the agency is authorized to issue citations, propose and enforce administrative penalties, and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating storage and handling of anhydrous ammonia in agricultural workplaces have been approved and are in effect in the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

TRANSPORTATION

→ FEDERAL TRANSPORTATION LAWS (MIGRANT WORKER MOTOR CARRIERS)

STATUTORY CITATION: 49 USC §§ 31501 - 31504 and §§ 501 - 526

RELATED REGULATIONS: 49 CFR Part 398

GENERAL SUMMARY: Chapter 315 of the federal transportation laws authorizes the U.S. transportation secretary to prescribe operating standards and equipment requirements for vehicles used to transport migrant agricultural workers, qualifications and maximum hours of service for drivers of such vehicles, and requirements for the comfort of passengers. Chapter 5, in turn, authorizes enforcement of the statutory and regulatory provisions governing migrant worker transportation and establishes penalties for violations.

SPECIFIC TERMS AND CONDITIONS: Individuals, businesses, associations and other entities (other than those providing service to the general public) that transport 3 or more migrant agricultural workers at a time to or from their employment on a trip of at least 75 miles and across state lines, in any motor vehicle other than a passenger car or station wagon, are required to comply with detailed regulatory requirements and restrictions, summarized in brief below.

Exception — The standards below do not apply to transportation of migrant workers when (1) the vehicle is designed or used to transport between 9 and 15 passengers, including the driver, (2) the carrier is directly compensated for the transportation service, and (3) the vehicle is operated beyond a 75-mile radius from the driver's normal work-reporting location. Drivers and vehicles in these cases are subject to safety regulations for commercial motor carriers, which are considerably more stringent.

QUALIFICATIONS OF DRIVERS OR OPERATORS — Drivers must meet certain physical qualifications, including eyesight and hearing criteria, and submit to initial and periodic physical examination evidenced by a doctor's certification. Drivers must also meet age and experience requirements and possess a valid operator's license for the class of vehicle to be driven.

DRIVING REGULATIONS — Drivers must adhere to state and local driving rules and observe prescribed procedures related to vehicle equipment, safe loading, rest and meal stops, authorized types of vehicles, vehicle fueling, and other safety measures.

HOURS OF SERVICE — No driver may drive, or be permitted or required to drive, for more than 10 hours (excluding rest and meal stops) in any period of 24 consecutive hours, unless the driver is afforded 8 consecutive hours of rest immediately following the 10-hour driving period.

VEHICLE PARTS AND ACCESSORIES — Vehicles must be equipped with prescribed devices, parts and accessories, in accordance with specifications covering lighting devices, brakes, coupling devices and fifth wheels, tires, and the passenger compartment.

PROTECTION OF PASSENGERS FROM WEATHER — To protect passengers from inclement weather, the passenger compartment of any vehicle (other than a bus) carrying migrant workers must be equipped with a top at least 80 inches high above the floor, and with facilities for covering the sides and ends of the passenger compartment. Any removable weather-protective devices such as a tarpaulin must be secured in place.

VEHICLE INSPECTION AND MAINTENANCE — The person in control of any vehicle used to transport workers is obligated to inspect and maintain the vehicle and its accessories, to assure its safe and proper operating condition.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, D.C. 20590 (800-832-5660). Through field offices in every state, FMCSA agents are authorized to inspect vehicles being used to transport migrant agricultural workers. Any vehicle found on inspection to be likely to cause an accident or breakdown by virtue of its mechanical condition or loading may be declared and marked "out of service" and may not be operated until required repairs noted on the compliance check form have been completed. The agency is authorized to receive and investigate complaints, to conduct related hearings, and when violations are found, to assess civil money penalties. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The migrant worker transportation regulations are also enforced by state motor carrier safety enforcement agencies.

→ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (MOTOR VEHICLE SAFETY)

STATUTORY CITATION: 29 USC § 1841

RELATED REGULATIONS: 29 CFR Part 500, Subpt. D

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act regulates the employment activities of farm labor contractors, and imposes related limitations and obligations on agricultural employers and agricultural associations which employ migrant or seasonal farmworkers. Apart from such other major provisions as contractor registration, notification, recordkeeping, payment of wages, and housing, the Act includes specific requirements relating to worker transportation.

SPECIFIC TERMS AND CONDITIONS: In general, any farm labor contractor, agricultural employer or agricultural association using (or causing to be used) any vehicle to transport a migrant or seasonal agricultural worker must comply with prescribed safety and insurance requirements, key elements of which are summarized below.

Exceptions — These provisions do not apply to (1) transportation of any worker on a tractor, combine, harvester or similar machinery while the worker is engaged in planting, cultivating or harvesting activities, (2) any individual worker carrying only immediate family members, or (3) carpooling arrangements made by the workers themselves, using one of the workers' own vehicles and not directed by an agricultural employer or association or participated in by a farm labor contractor.

PASSENGER CARS AND STATION WAGONS — Passenger cars and station wagons used by a contractor, employer or association to transport workers must meet qualitative standards covering external lights, brakes, tires, steering, horn, mirrors, windshields and windshield wipers, the fuel system, exhaust system, ventilation, safe loading, seats, handles and latches, and the passenger compartment. These same specifications also apply to vehicles other than passenger cars and station wagons, provided the distance traveled on any one trip does not exceed 75 miles (one trip may have numerous intermediate stops). Pickup trucks transporting passengers only within the cab are treated as station wagons.

OTHER VEHICLES ON TRIPS EXCEEDING 75 MILES — When a migrant or seasonal worker is transported by a contractor, employer or association in a vehicle other than a passenger car or station wagon on any trip of more than 75 miles, the vehicle is subject to the U.S. Department of Transportation's migrant worker transportation safety standards (described in the preceding entry), but without regard to the mileage and state-line limitations mentioned in those provisions. In brief, these standards include:

Driver Qualifications — Drivers must meet minimum prescribed physical requirements, obtain a certificate of physical examination from a licensed medical doctor, meet specified age and experience requirements, possess a valid driver's license for the type of vehicle being used to transport workers, and meet other related standards.

Driver and Vehicle Compliance — The driver must comply with prescribed rules for passenger and cargo loading, driving, meal and rest stops, fueling and other operational functions. The vehicle must meet standards related to parts and accessories, seating capacity, passenger safety, and other equipment specifications.

INSURANCE — A farm labor contractor, agricultural employer or agricultural association may not transport migrant or seasonal farmworkers in any vehicle owned, controlled or operated by the contractor, employer or association, unless he or she has an insurance policy or liability bond in effect which insures against liability for damage to persons or property arising from ownership or operation of the vehicle. The liability limit must be no less than \$100,000 for each seat in the vehicle, up to a maximum of \$5,000,000 for any one vehicle. In general, the owner or lessor of the vehicle is responsible for providing the required insurance.

Likewise, when an employer of a migrant or seasonal farmworker provides workers' compensation insurance protecting against bodily injury or death while the worker is being transported, the employer must also obtain property damage insurance with minimum coverage of \$50,000 for loss or damage in any one accident.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is responsible for investigating complaints or suspected violations under the Act, including those involving the transportation of agricultural workers. Wage and Hour personnel may interview workers, contractors and employers, inspect and copy records, and consult with related compliance agencies in enforcing these provisions. When a violation is confirmed, the agency may suspend or revoke the contractor's certificate of registration and may impose civil penalties against the contractor, employer or association involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: Any farming establishment seeking certification to employ temporary foreign agricultural labor under the so-called "H-2A" program is required to circulate a formal job offer for U.S. workers, starting no sooner than 75 days and no later than 60 calendar days before the work is expected to begin. If the employer's H-2A application is later approved, the U.S. and foreign workers hired by the employer pursuant to the job offer must receive a written work contract specifying the benefits and conditions of employment. Both the job offer and the work contract must contain certain minimum standards and guarantees, including requirements related to worker transportation.

SPECIFIC TERMS AND CONDITIONS

TRANSPORTATION TO THE PLACE OF EMPLOYMENT — Each foreign or domestic worker who completes 50 percent of the work contract period is entitled to payment by the employer for costs incurred by the worker for transportation and meals between the place from which the worker has come to work for the employer, and the place of employment. Transportation and meal costs must be advanced to the worker prior to the trip whenever it is common practice for non-users of foreign labor in the same occupation and the same area to do so.

DAILY TRANSPORTATION TO THE WORKSITE — During the course of the contract, the employer must provide transportation between the worker's living quarters and the worksite, without cost, but only to the extent that the worker is unable to return to his or her own home within the same day.

TRANSPORTATION BACK TO THE POINT OF ORIGIN — Provided that the worker completes the contract period, the employer is obligated to furnish or pay for the worker's transportation and daily subsistence back to the place of origin or to the next place of employment, if such travel costs are not covered by the next employer.

TRANSPORTATION STANDARDS — Employer-provided transportation must comply with all applicable federal, state and local laws or regulations. At a minimum, the transportation provided to H-2A workers must meet the driver and vehicle safety and insurance standards required under the Migrant and Seasonal Agricultural Worker Protection Act, summarized in the previous entry.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the required work contract between H-2A employers and their foreign and U.S. workers, including the obligation to provide employee transportation. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the associated job offers comply with statutory requirements, including the provision of transportation to the workers.

WAGES AND HOURS

→ FAIR LABOR STANDARDS ACT OF 1938

STATUTORY CITATION: 29 USC §§ 201 – 219

RELATED REGULATIONS: 29 CFR Parts 516, 531, and 780

GENERAL SUMMARY: In addition to child labor restrictions, overtime pay requirements, and other workplace protections, the Fair Labor Standards Act establishes a nationwide minimum wage, currently \$7.25 per hour. With some exceptions, employers must pay the federal minimum wage to any of their employees who, in any workweek, are engaged in commerce or in the production of goods for commerce.

Employers subject to the minimum wage provision must also maintain and preserve records regarding the identity of their employees, pay rates, hours worked, earnings, deductions, and dates of payment.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — A farm operator or other agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) is required to pay no less than the federal minimum wage to each employee during the current year, unless the employee is statutorily excluded from coverage. The federal minimum wage, applicable in all 50 states and in Puerto Rico, is currently \$7.25 per hour.

COVERAGE EXCLUSIONS — The following categories of farm employees are *not covered* by the minimum wage provision:

- (1) Any parent, spouse, child or other immediate family member of the employer.
- (2) Any person who is employed as a hand harvest worker, is paid on a piece-rate basis in an operation customarily paid by piece rate in the region of employment, commutes daily from his or her permanent residence to the farm where employed, and was employed in agriculture less than 13 weeks the preceding year.
- (3) Any person 16 years of age or under who is employed as a hand-harvest worker, is paid on a piece-rate basis in an operation generally recognized as a piece-rate job in the local area, is employed on the same farm as his or her parent (or person standing in the place of the parent), and is paid the same piece rate as employees over age 16 on the same farm.
- (4) Any person principally engaged in the range production of livestock.

VALUATION OF NON-CASH COMPENSATION — Agricultural employers who are required to pay the federal minimum wage may generally count as part of an employee's wages the reasonable cost of furnishing the worker with food, lodging or other facilities, as long as the employer customarily provides such benefits to all other employees. The U.S. Department of Labor has determined that "reasonable cost" does not include a profit to the employer or the employer's agents, and that the imputed value may not exceed the actual cost to the employer of the food, lodging or other facilities furnished the employee. Any facilities provided employees primarily for the benefit or convenience of the employer may not be counted as wages. Records documenting the cost of furnishing such benefits in lieu of cash wages must be maintained and preserved by the employer.

RECORDKEEPING REQUIREMENTS — Agricultural employers who reasonably anticipate using more than the requisite 500 worker-days of farm labor in any calendar quarter of the current year must keep a record of each employee's name, address, sex and occupation, as well as the number of worker-days of labor employed per week or per month. Those farm employers who actually used more than 500 worker-days of farm labor in any quarter of the preceding year must follow these same recordkeeping requirements for the entire current year, but must also record for each worker the date the employee's workweek begins, the wage rate involved, the number of hours worked per day or per week, total earnings per day or per week, deductions, net wages paid, and dates of payment. An employer who makes deductions from wages for board, lodging or other facilities furnished to the worker by the employer or the employer's designee must maintain and preserve records substantiating the cost of furnishing each type of service or facility.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — The question of who, if anyone, is liable for payment of the minimum wage in cases where workers are represented, supplied, or supervised by a crew leader or labor contractor depends substantially on the balance of control exercised by the crew leader and the farmer over the workers and the work performed. A crew leader who merely assembles a crew of farmworkers and brings them to the farm to be supervised and paid directly by the farm operator, and who does the same work and receives the same pay as crew members, is an employee of the farmer. In such circumstances, it is the farmer's worker-day count — including the labor of the both the crew leader and crew members — that determines whether or not the minimum wage applies; if so, it is the farmer and not the crew leader who is responsible for paying it.

On the other hand, where the farmer only establishes the general manner for the work to be done, and where the contractor or crew leader makes day-to-day decisions regarding the work and has the opportunity for profit through supervision of the crew and its output (especially through the authority to hire, fire and direct the workers, set pay rates, and resolve complaints), the contractor or crew leader is the employer of the workers. To the extent that the contractor or crew leader employs more than the required worker-day volume of labor in a calendar quarter, the contractor is obligated to pay the federal minimum wage.

Whether or not the crew leader is found to be a bona fide independent contractor, however, the workers are considered jointly employed by the crew leader and the farmer who is using their labor if the farmer has the power to direct, control or supervise the work or to determine pay rates or the method of payment. Both the farmer and the crew leader are equally responsible for compliance with the Fair Labor Standards Act, including payment of the minimum wage (if applicable) and recordkeeping.

RETALIATION — An employer may not discharge or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is authorized to investigate complaints of unpaid or sub-minimum wages and, where violations are found to have occurred, to impose civil penalties. In exercising these functions, the agency has authority to enter workplaces, interview employers and employees, and inspect and copy employment records.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, the Act also permits employees claiming unpaid minimum wages to file suit in federal court for back pay and related damages, using a private attorney or public legal service provider. An employer found by the court to have violated the Act's minimum wage requirements is liable to the worker in the amount of the unpaid wages and an additional equal amount as liquidated damages. The court may also award reasonable attorney's fees and court costs.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: To protect the well-being of foreign agricultural workers admitted into the U.S. under the so-called "H-2A" program authorized by the Immigration and Nationality Act, and to assure that the importation of temporary labor does not erode job opportunities and working conditions for domestic farmworkers, the U.S. Department of Labor has adopted special wage standards applicable to agricultural establishments that employ U.S. or non-U.S. workers to perform services pursuant to a formal H-2A job offer.

SPECIFIC TERMS AND CONDITIONS

HOURLY WORKERS — Each H-2A worker, and any U.S. worker engaged in comparable employment, who is paid by the hour must be compensated at a rate not less than (1) the federal minimum wage, (2) the state minimum wage, (3) the prevailing hourly wage rate, or (4) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, whichever of the four figures is highest. The adverse effect wage rate is an annually updated hourly wage floor intended to discourage domestic agricultural wage deflation which could otherwise result from the use of foreign labor. As computed for all states except Alaska, the following are the AEWRs established for calendar year 2017:

Alabama—\$10.62, Arizona—\$10.95, Arkansas—\$10.38, California—\$12.57, Colorado—\$11.00, Connecticut—\$12.38, Delaware—\$ 12.19, Florida—\$11.12, Georgia—\$10.62, Hawaii—\$13.14, Idaho—\$11.66, Illinois—\$13.01, Indiana—\$13.01, Iowa—\$13.12, Kansas—\$13.79, Kentucky—\$10.92, Louisiana—\$10.38, Maine—\$12.38, Maryland—\$12.19, Massachusetts—\$12.38, Michigan—\$12.75, Minnesota—\$12.75, Mississippi—\$10.38, Missouri—\$13.12, Montana—\$11.66, Nebraska—\$13.79, Nevada—\$11.00, New Hampshire—\$12.38, New Jersey—\$12.19, New Mexico—\$10.95, New York—\$12.38, North Carolina—\$11.27, North Dakota—\$13.79, Ohio—\$13.01, Oklahoma—\$11.59, Oregon—\$13.38, Pennsylvania—\$12.19, Rhode Island—\$12.38, South Carolina—\$10.62, South—Dakota \$13.79, Tennessee—\$10.92, Texas—\$11.59, Utah—\$11.00, Vermont—\$12.38, Virginia—\$11.27, Washington—\$13.38, West Virginia—\$10.92, Wisconsin—\$12.75, Wyoming—\$11.66.

PIECE-RATE WORKERS — Workers who are paid on a piece-rate basis and whose piecework earnings at the end of the pay period are below what they would have been had the workers been paid at the appropriate hourly rate for each hour worked, must be given supplemental pay at that time to make up the difference. In no instance may an H-2A employer pay a piece rate for a given crop operation that is less than the prevailing piece rate in the local area for the same operation. Minimum productivity standards used by employers as a condition for job retention by piece-rate workers are subject to certain regulatory restrictions.

GUARANTEED PAID WORKDAYS — In general, each U.S. and foreign worker hired under an H-2A work contract is guaranteed employment for at least 3/4 of the workdays in all periods during which the contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay the worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays. In computing the amount due under the guarantee for a worker paid by the hour, the employer must use the worker's regular hourly pay rate; in the case of a pieceworker, the guarantee is figured using the worker's average hourly piece-rate earnings or the adverse effect wage rate, whichever is higher.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the wage standards and all other elements in the required work contract between H-2A employers and their foreign and U.S. workers. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the wage rate offered to the workers and other aspects of the associated job offers comply with statutory requirements.

○ FAIR LABOR STANDARDS ACT OF 1938 (HOURS AND OVERTIME)

STATUTORY CITATION: 29 USC §§ 201 – 219

RELATED REGULATIONS: 29 CFR Part 780

GENERAL SUMMARY: The Fair Labor Standards Act generally requires subject employers to pay each covered employee no less than $1^1/2$ times the employee's regular pay rate for all employment in any workweek after 40 hours. Apart from restrictions on minors, there is no absolute limitation on the number of hours an employee may work in a week, as long as the worker receives time-and-a-half for all overtime hours or is excepted from the overtime pay provision.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EXEMPTION — The entitlement to receive overtime compensation *does not apply* to any worker employed in farming, by a farmer, or on a farm, or to employees engaged in the transportation and preparation for transportation of fruits and vegetables from the farm to the place of first processing or first marketing within the same state.

RELATED EXEMPTIONS —

Sugarcane and Sugarbeet Processing — The Act exempts for up to 14 weeks in a calendar year employees employed exclusively to provide services necessary and incidental to processing sugarcane or sugarbeets, and for up to 14 weeks in a consecutive 52-week period employees engaged in processing sugarbeets, sugarbeet molasses or sugarcane into non-refined sugar or syrup, provided in both cases they receive at least 1¹/₂ times their regular pay for hours worked in excess of 10 hours a day and 48 hours a week.

Cotton Ginning — The Act exempts for up to 14 weeks in a calendar year any employee employed exclusively to provide services necessary and incidental to ginning cotton in the gin, and for up to 14 weeks in any consecutive 52-week period any employee engaged in ginning of cotton in any county where cotton is grown in commercial quantities, provided in both cases that employees receive during those exempt periods at least 1'/2 times their regular rate of pay after 10 hours in any workday and after 48 hours in any workweek.

Cotton Compressing and Cottonseed Processing — The Act exempts for up to 14 weeks in a calendar year any employee employed exclusively to provide services necessary and incidental to receiving, handling and storing raw cotton and compressing raw cotton when performed at a cotton warehouse or compress, and any employee providing similar services with respect to cottonseed in an establishment primarily engaged in receiving, handling, storing and processing of cottonseed, provided they are paid at least 1½ times their regular wage after 10 hours a day and 48 hours a week.

Country Elevators — Workers at certain country elevators with no more than 5 employees are totally exempted from the Act's overtime requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (PAYMENT OF WAGES)

STATUTORY CITATION: 29 USC §§ §§ 1801 - 1872

RELATED REGULATIONS: 29 CFR Part 500, Subpt. C

GENERAL SUMMARY: In addition to its contractor registration, housing and transportation provisions, the Migrant and Seasonal Agricultural Worker Protection Act requires farm labor contractors, agricultural employers and agricultural associations to comply with certain prescribed wage payment procedures.

SPECIFIC TERMS AND CONDITIONS: Each farm labor contractor, agricultural employer and agricultural association that employs any migrant or seasonal worker must pay the wages owed to the worker when due, but in no case less often than every 2 weeks or semi-monthly. For each pay period, a contractor, employer or association which employs any such worker must provide the worker with an itemized written statement showing (1) the basis on which wages are paid, (2) the number of piecework units earned, if paid on a piecework basis, (3) the number of hours worked, (4) total pay period earnings, (5) the amount and purpose of each deduction from earnings, and (6) net pay.

SPECIAL NOTES OR ADVISORIES

JOINT RESPONSIBILITY — Generally, the workers in a farm labor contractor's crew are considered jointly employed by the farm labor contractor and the farmer who is using their labor, if the farmer has the power to direct, control or supervise their work or to determine pay rates and the method of payment. In the event that a farm labor contractor fails to comply with the disclosure, posting and wage payment requirements outlined above, the farmer is legally responsible for compliance.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. A worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). In response to a worker complaint or on its own initiative, Wage and Hour Division personnel may enter workplaces, inspect payroll records, and interview workers, contractors and employers. In the event a violation of the Act's wage payment provisions is confirmed, the agency has authority to order and supervise payment of unpaid wages, suspend or revoke a contractor's registration certificate, and impose money penalties on contractors, employers and associations found in violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: In addition to paying prescribed wage rates, employers who utilize or seek to utilize the services of temporary foreign agricultural workers under the H-2A program must also observe certain procedural requirements in making wage payments to their U.S. and non-U.S. workers employed under an H-2A work contract.

SPECIFIC TERMS AND CONDITIONS

FREQUENCY OF WAGE PAYMENTS — Employers who use temporary foreign agricultural workers must pay both their foreign and U.S. workers at least twice a month, or more often if such is the prevailing practice in the area of employment. The wage payment schedule must appear in the contract.

WAGE DEDUCTIONS — Employers are permitted to withhold from a worker's pay only those deductions that are required by law or are otherwise reasonable, provided the non-mandatory deductions are spelled out in the contract. An employer may deduct the cost of providing the worker's transportation and daily subsistence expenses to the place of employment, but the full amount of the deduction must be refunded to the worker upon the worker's completion of 50 percent of the contract period.

HOURS AND EARNINGS STATEMENT — On or before each payday, the employer must provide each worker with written documentation showing (1) the worker's total earnings for the pay period, (2) the hourly wage or piece rate, (3) the hours of employment offered to the worker and the hours actually worked, (4) each deduction from the worker's pay and its purpose, and (5) the worker's daily piecework production if paid on a piecework basis.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the pay provisions and all other elements of the required work contract between H-2A employers and their foreign and U.S. workers. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the wage payment terms offered to the workers and other aspects of the associated job offers comply with statutory requirements.

■ INTERNAL REVENUE CODE OF 1986 (COLLECTION OF INCOME TAX AT THE SOURCE ON WAGES)

STATUTORY CITATION: 26 USC §§ 3401 – 3406

RELATED REGULATIONS: 26 CFR Part 31

GENERAL SUMMARY: The Internal Revenue Code embodies, among other provisions, the federal income tax laws of the United States. The Code dictates both the income tax rates and the circumstances under which individuals are liable for payment of income taxes. In general, every employer who pays wages during the year is required to deduct and withhold from such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury.

On or before January 31 of the following year, an employer required to withhold federal income tax must provide each employee with a statement on Form W-2 showing, among other information, (a) the employer's name, address and identification number, (b) the employee's name, address and Social Security number, (c) the total amount of wages paid, (d) the total amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that agricultural wages are subject to FICA taxes, the wages are also subject to withholding of federal income taxes. Hence, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees.

On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must deduct and withhold federal income tax from that worker's wages.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be obligated to file an annual federal income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

VOLUNTARY WITHHOLDING — While deduction of income tax from a farmworker's wages may not be required, such taxes may be withheld if the employer and the employee agree to such withholding. A worker who desires to enter into a voluntary withholding agreement must furnish the employer with a completed Form W-4, which constitutes a request for withholding. No request for voluntary withholding is effective, however, until the employer accepts the request by commencing to withhold taxes from the worker's earnings.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710). Primarily through its district offices and regional service centers, IRS is responsible for the collection of taxes authorized by the Internal Revenue Code. Consequently, IRS district office personnel may investigate complaints or suspected violations involving the collection and handling of employment taxes.

Alabama

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Alabama

0.41-4				
Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

O CHILD LABOR LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-8-32 - 25-8-61

RELATED REGULATIONS: Ala. Admin. Code, Ch. 480-3-1

GENERAL SUMMARY: The state child labor law regulates the employment of minors, by setting the general minimum working age at 14, prohibiting employment in certain hazardous occupations and workplaces, restricting the hours of work, requiring the use of child labor certificates under certain circumstances, and imposing related limitations.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for the prohibition against employment of workers under 14 in farm-related activities involving power machinery, the state child labor law **does not apply** to work in agricultural services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Child Labor Division, Alabama Department of Labor, Montgomery, Alabama 36130.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ala. Code 1975 §§ 16-28-1 - 16-28-45

GENERAL SUMMARY: In general, every child between the ages of 6 and 17 years must regularly attend school for the entire length of the school term, and the parent or person standing in the place of the parent is liable for the child's non-attendance. Among a limited number of exceptions, the compulsory attendance law exempts from attending public school any child who is legally and regularly employed under the state child labor law.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they comply with the hours and time-of-day restrictions prescribed in the state child labor law, children of any age may be employed in agricultural services and are thus **not subject** to the compulsory school attendance law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Local boards of education and the juvenile court system are responsible for assuring compliance with the compulsory attendance law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O WORKERS' COMPENSATION LAW (UNLAWFUL CHILD LABOR)

STATUTORY CITATION: Ala. Code 1975 § 25-5-34

GENERAL SUMMARY: In the case of the job-related injury of a minor employed in violation of or contrary to the state child labor law, the worker or the worker's beneficiaries are entitled to *twice* the amount of workers' compensation benefits otherwise payable if the worker had been legally employed.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law, and thus the double-compensation provision for unlawful child labor, **does not apply** to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130.

CIVIL RIGHTS

ALABAMA AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Ala. Code 1975 §§ 25-1-20 - 25-1-29

GENERAL SUMMARY: It is unlawful for an employer who has 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year to discriminate against a worker 40 years of age or older in hiring, job retention, compensation or other terms or conditions of employment. This law also prohibits age discrimination against persons age 40 and over by employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they employ at least 20 workers for each working day in each of 20 or more calendar weeks in the current or preceding year, farm operators and other agricultural establishments are subject to the Act to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *None.* A person who has suffered age discrimination at the hands of a subject employer, employment agency or labor organization may bring a civil action in the state circuit court of the county in which the person was or is employed. The person is not required to file an administrative complaint or charge before filing suit in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

○ GENERAL LABOR LAWS (PROVISION OF SAFE EMPLOYMENT)

STATUTORY CITATION: Ala. Code 1975 § 25-1-1

GENERAL SUMMARY: In general, employers in Alabama are obligated to furnish employment reasonably safe for their employees, provide appropriate safety devices and safeguards, and do everything reasonably necessary to protect the life, health and safety of their employees and others at the workplace who are not trespassers.

PROVISIONS APPLICABLE TO AGRICULTURE: The employer's statutory duty to assure the well-being of the workforce on the job does not apply to agricultural employers or agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Alabama Department of Labor, Montgomery, Alabama 36130. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-4-1 – 25-4-152

GENERAL SUMMARY: Chapter 4 of the Alabama labor laws establishes a state unemployment compensation trust fund, provides for the collection of unemployment insurance contributions from subject employers, and provides for the payment of UI benefits to covered workers who are involuntarily unemployed.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Liability for payment of UI taxes extends to those agricultural employers who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed in agricultural labor 10 or more workers. Only the first \$8,000 of wages paid in a calendar year to each worker by a covered employer is subject to state UI taxation.

ELIGIBILITY FOR BENEFITS — Subject to numerous other limitations, workers who meet the law's earnings requirements, and who are without work but are available for and actively seeking employment, are eligible for weekly unemployment insurance benefits. Generally, to qualify for benefits in Alabama, a worker must have, during the first four of the last five completed calendar quarters immediately preceding the claim (the "base period"), received total wages for insured employment in that four-quarter period equal to or exceeding 1:/2 times the wages received in the one quarter in which wages were highest.

AMOUNT OF BENEFITS — For eligible workers who are totally unemployed, the amount of the weekly benefits is calculated at 1/26 of the average wages for insured employment paid during the two quarters of the base period when wages were highest, but state law provides for no benefits if the calculation does not amount to more than \$44.50 and limits the weekly benefit to \$265. Weekly benefit payments are equal to the weekly benefit amount, minus any wages received that week in excess of one-third of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130 (866-234-5382). This agency is responsible for collecting UI taxes, receiving and processing UI claims and appeals, and administering UI benefit payments. Workers may apply for benefits online, at https://labor.alabama.gov/uc/claims/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ ALABAMA WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-5-1 - 25-5-340

GENERAL SUMMARY: In the case of an employer who regularly employs 5 or more employees in any one business, Chapter 5 of the state labor laws provides that when personal injury or death is sustained by an employee through an on-the-job accident caused by a covered employer's negligence, the employee or the employee's survivors are entitled to compensation in civil court. In any such lawsuit, the employer generally may not use as a defense that the employee was negligent, that the injury was caused by the negligence of a fellow employee, or that the employee had assumed certain risks in connection with the employment.

As an alternative to court action and the likelihood of a judgment against the employer, the law prescribes the use of workers' compensation insurance, which assures payment of required money benefits to persons injured (or to survivors of persons killed) on the job, without regard to any question of negligence, and protects the employer from any other liability for damages. The law establishes the conditions under which workers' compensation is payable, as well as the type of and limits on such benefits, which include periodic cash payments, payment of burial expenses, and payment of medical and hospital costs.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where the employer elects to become subject to coverage voluntarily, the provisions entitling workers to compensation for employment-related injury or death **do not apply** to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130.

PESTICIDES AND AGRICULTURAL CHEMICALS

ALABAMA PESTICIDE ACT

STATUTORY CITATION: Ala. Code 1975 §§ 2-27-1 - 2-27-63

RELATED REGULATIONS: Ala. Admin. Code, Chapters 80-1-13 and 80-1-14

GENERAL SUMMARY: With the aim of preventing injury to health, property, crops, livestock and wildlife, either directly or through drift, Chapter 27 of the state agriculture statutes regulates the registration, sale, application and other use of pesticides in Alabama, and authorizes adoption of administrative regulations consistent with these purposes.

SPECIFIC TERMS AND CONDITIONS

LICENSING OF APPLICATORS — No one may engage in the application of pesticides for hire without obtaining an annual license from the state. Issuance of such a license is contingent upon satisfactory completion of a written examination covering the proper application of pesticides and the dangers involved and precautions to be taken in connection with their use. Applicants for a license must also post a surety bond or obtain liability insurance covering any damages caused by the administration of pesticides by the licensee.

EQUIPMENT AND FACILITIES — Licensed applicators are required to keep their pesticide application equipment properly calibrated and maintained in proper functional condition at all times. Licensees' storage, mixing and disposal facilities must be maintained in a manner so as not to cause injury or damage to people, animals or the environment.

STORAGE OF PESTICIDES — Licensed applicators must keep all pesticides in a clean, well ventilated, well lighted area which can be secured from entry by lock.

AERIAL APPLICATION STANDARDS — It is unlawful for anyone to dispense pesticides from an aircraft (1) under conditions that would allow the pesticide to drift outside the target area, result in over-spray, cause potential adverse effects to people or the environment, or (2) in a manner inconsistent with the product's label.

RECORDKEEPING — Persons licensed as custom applicators are required to keep a record of each pesticide application, including the name and address of the person for whom the treatment was performed, the location of the treated area, the name of the crop involved, the date of application, the name of the pesticide used, and other related information specified in the regulations.

EXCEPTIONS — This law does not apply to persons engaged in farming activities who use their own ground equipment or aircraft for the application of pesticides (unless they use such equipment for compensation and on property not owned or leased by them), nor does it apply to products used on lawns, trees or shrubs adjacent to homes or other buildings, or to chemicals used for the control of household pests.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Management Section, Alabama Department of Agriculture and Industries, Montgomery, Alabama 36107 (334-240-7242). Representatives of the Department are authorized to enter public and private property for the purpose of inspecting aircraft and ground equipment used in the custom application of pesticides. Inspectors may also examine related books and records. The agency may refer cases of non-compliance to the state attorney general for appropriate legal action. Violations are treated as a misdemeanor, punishable by a fine, a jail sentence, or both.

WAGES AND HOURS

◎ GENERAL PROPERTY LAWS (AGRICULTURAL LABORERS' LIENS)

STATUTORY CITATION: Ala. Code 1975 § 35-11-91

GENERAL SUMMARY: Chapter 11 of the Alabama property laws provides for the enforcement of liens against certain kinds of property for the settlement of related claims against the property owner.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural laborers and plantation superintendents may enforce a lien against current-year crops grown by farm operators for whom such laborers or superintendents have worked, as a means of collecting unpaid wages for labor and services rendered in connection with those crops. With respect to a farm operator against whom a laborer's lien is declared, however, any lien by a landlord for rent and advances or any other lien for supplies furnished to make the crops must be settled first, before the laborer may collect for wages due.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — To enforce an agricultural laborer's lien, the worker must bring suit in an appropriate state or local court, using a private attorney or public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

ALABAMA INCOME TAX LAWS

STATUTORY CITATION: Ala. Code 1975 § 40-18-71

RELATED REGULATIONS: Ala. Admin. Code, § 810-3-75-.01

GENERAL SUMMARY: Chapter 18 of Alabama's revenue and taxation statutes authorizes the taxation of income in the state and generally requires the withholding of income taxes from employees' wages. With certain exceptions and credits, employers must withhold a tax equal to two percent of the first \$500 or less in wages paid, four percent of the next \$2,500 or less, and five percent of the excess over \$3,000. Employers have the option of withholding a substantially equivalent amount based on tables furnished by the state administering agency.

PROVISIONS APPLICABLE TO AGRICULTURE: Like the earnings of most other classes of employees, agricultural workers' wages are subject to withholding of state income tax. No later than January 31 of the following year or 30 days after the employment ends, employers must provide each worker with a statement showing (1) the total amount of compensation paid during the calendar year, (2) the amount of state income tax withheld, and (3) the employer's name, address and tax ID number.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Individual and Corporate Tax Division, Alabama Department of Revenue, Montgomery, Alabama 36132 (334-242-1000).

Alaska

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Alaska

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

ALASKA CHILD LABOR LAWS

STATUTORY CITATION: Alaska Stat. §§ 23.10.325 - 23.10.370

GENERAL SUMMARY: The Alaska child labor laws establish standards for the employment of minors under 18 years of age, with the aim of protecting their health, morals, education and future welfare and to prohibit abuses and unjust exploitation of child labor.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment of children in agriculture is generally governed by the same rules applicable to non-agricultural employment.

CHILDREN UNDER 14 — Persons under 14 years of age may not be employed at any time, other than in (1) domestic employment, baby-sitting and handiwork in and about private homes, and (2) newspaper delivery or sales.

CHILDREN UNDER 16 — The combined duration of school attendance and employment of a person under 16 years of age may not exceed 9 hours in one day, and, except for domestic work and baby-sitting, employment outside school hours may not exceed 23 hours in one week. Employment of persons under 16 is authorized only between the hours of 5:00 a.m. and 9:00 p.m. and only outside school hours.

CHILDREN UNDER 17 — In general, persons under the age of 17 may not be employed or allowed to work during local school hours or without a work permit.

CHILDREN UNDER 18 — Except for minors 16 to 18 years of age granted a written exemption by the state, children under the age of 18 may not be employed or allowed to work more than 6 days a week or in certain hazardous occupations.

REQUIRED REST PERIODS — A person under age 18 who is scheduled to work for 6 consecutive hours or more is entitled to a break of at least 30 minutes during the course of the work shift, and the break must occur after the first hour-and-a-half of work and before the beginning of the last hour. Similarly, a person under age 18 who works for 5 consecutive hours without a break is entitled to a break of at least 30 minutes before continuing work. Failure to provide the required break creates a minimum wage liability for the break that the employee failed to receive or received late, and a wage claim for the amount is enforceable.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Alaska Stat. §§ 14.30.010 - 14.30.047

GENERAL SUMMARY: With a few specific exceptions, every child between 7 and 16 years of age must attend public school (or its prescribed equivalent) during the school term. Every parent, or person standing in the place of the parent, having responsibility for or control of a child between the ages of 7 and 16 must ensure that the child is not absent without valid reason.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless excused under one or more of the law's narrow exemptions, the children of agricultural workers are subject to these provisions to the same extent as other school-age youth.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory education law is enforced by the state district courts, on complaints filed by public school districts or private school administrators. A violation of these provisions is a misdemeanor, conviction on which may lead to a separate fine for each 5 days of unlawful absence.

CIVIL RIGHTS

STATE HUMAN RIGHTS LAW

STATUTORY CITATION: Alaska Stat. §§ 18.80.010 – 18.80.300

GENERAL SUMMARY: Alaska's health, safety and housing statutes include provisions which prohibit discrimination in employment on the basis of race, religion, color, national origin, physical or mental disability, sex, age, marital status, changes in marital status, pregnancy or parenthood, and declare it a civil right to obtain employment without such discrimination. Among other illegal employment practices, employers may not refuse to hire and may not discriminate against a person in pay or other conditions of employment on the above-mentioned grounds when the reasonable demands of the job do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy or parenthood.

The law also makes it unlawful to print or circulate job announcements, advertisements or applications which express any sort of limitation, specification or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color or national origin, unless based on a bona fide occupational qualification.

It is illegal to employ a female at a salary or wage rate less than that paid to a male employee for work of comparable character, or work in the same occupation, business or type of work in the same locality.

Employers and others subject to these provisions are required to maintain records on age, sex and race necessary for enforcement of the anti-discrimination laws.

PROVISIONS APPLICABLE TO AGRICULTURE: Like most other classes of employers in Alaska, farm operators and other agricultural establishments with one or more employees in the state must observe the proscriptions against discrimination in employment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against a person because the person has opposed a discriminatory practice or has filed a complaint or participated in a proceeding under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Alaska State Commission for Human Rights, Anchorage, Alaska 99501 (800-478-4692). Any person subjected to or alleging employment discrimination may file a complaint with the Commission, which is obligated to investigate such allegations promptly and impartially. The agency's staff must first try to resolve confirmed cases of discrimination by conference, conciliation and persuasion. Cases that cannot be resolved by Commission staff may be presented to the Commission, which may issue formal compliance orders, including the award of back pay. Any such order may be enforced by the state courts upon the filing of a complaint by the Commission. Penalties for willful violations include a fine, jail sentence, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state human rights law authorizes municipalities to establish local human rights commissions and to grant such bodies powers and duties similar to those exercised by the state commission.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative complaint, a worker aggrieved by an apparent act of illegal employment discrimination may take legal action against the employer directly, using a private attorney or a public legal service provider.

HEALTH AND SAFETY

STATE HEALTH, SAFETY AND HOUSING LAWS

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 – 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1010

GENERAL SUMMARY: The state health, safety and housing laws generally require all employers in Alaska to, among other measures, (1) furnish each employee with employment and a place of employment free from recognized hazards that are likely to cause death or serious physical harm to employees, and (2) furnish and use suitable protective equipment, safety devices and safeguards. Among other prescribed protections, an employee who believes that imminent danger exists in the workplace, or that a violation of a safety or health standard exists that threatens harm, may request an inspection by the enforcement agency.

To reduce the incidence of work-related accidents and health hazards in the state, the state labor department is authorized to adopt and enforce specific occupational safety and health standards that prescribe requirements for safe and healthful working conditions in all employment and that are at least as effective as the corresponding federal standards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Alaska's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) but can be enforced against all agricultural establishments.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855). This agency is responsible for receiving reports of job-related injuries, illnesses and death, and for responding to requests from workers or their representatives for workplace inspections when there are reasonable grounds to believe a violation of these provisions has occurred or imminent danger to an employee exists. Agents of the Department may enter and inspect workplaces, question employers and employees, subpoena witnesses and records, and issue citations when violations are found. Failure by an employer to correct a violation may result in a civil money penalty and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

ALASKA EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Alaska Stat. §§ 23.20.005 - 23.20.535

GENERAL SUMMARY: The Alaska Employment Security Act authorizes the maintenance of the state's system of public employment offices and the state unemployment insurance program. Unless otherwise exempted, employers who for some portion of a day during the year employ or employed one or more individuals generally must pay contributions into the state unemployment compensation fund for the benefit of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — In general, any farm employer who (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) employed in agricultural labor 10 or more workers for some portion of a day in at least 20 different calendar weeks in the current or preceding calendar year, must pay contributions into the state unemployment compensation fund. With respect to each covered employee, the amount of the employer's contributions is calculated by multiplying the employee's wages — up to a calendar-year limit equal to 75 percent of the average annual wage in Alaska over the preceding 12-month period ending June 30 — by the employer's applicable UI tax rate.

ELIGIBILITY FOR BENEFITS — Unemployed workers who, over the first four of the last five completed calendar quarters preceding application, have been paid at least \$2,500 in wages by employers subject to UI taxes, as summarized above, are generally eligible for unemployment benefits, provided such wages were paid in at least two calendar quarters.

AMOUNT OF BENEFITS — Eligible unemployed workers who are available for work and actively seeking work may receive regular weekly benefits ranging from \$56 to \$370 per week, depending on past earnings, for from 16 to 26 weeks. They may also qualify for an additional allowance for dependents.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor, is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment and Training Services Division, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2712). This agency is responsible for determining employers' UI tax liability, collecting UI contributions, receiving and processing benefit claims and appeals, and paying benefits. Claims may be filed online, at my.alaska.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ ALASKA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Alaska Stat. §§ 23.30.001 - 23.30.400

GENERAL SUMMARY: The Alaska Workers' Compensation Act authorizes the payment of compensation to a covered employee or the employee's survivors in the event of the employee's work-related disability or death. In general, all employers subject to this law are liable for payment of (among other costs) physicians' and nurses' fees, hospital services and supplies, medicines, burial expenses, and weekly cash payments or death benefits on behalf of workers injured, disabled or killed on the job. Compensation is payable without respect to fault as a cause for the injury or accident.

The Act provides for the issuance of workers' compensation insurance policies, the purchase of which fully satisfies the employer's liability for injury to an employee. If, however, an employer fails to obtain workers' compensation insurance coverage or otherwise provide the compensation required under this law, the injured employee (or the employee's survivors) may sue for compensation in state court, and the employer may not use as a defense in such an action that the injury was caused by the employee's negligence or the negligence of a fellow worker, or that the employee had assumed the risks that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Workers' Compensation Act generally applies to agricultural employment but *does not cover* harvest labor and similar part-time or transient workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2790). This agency is responsible for receiving workers' compensation claims filed by employees or their representatives, investigating such claims, and acting to award or deny benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

ALASKA EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Alaska Stat. §§ 23.15.330 - 23.15.520

GENERAL SUMMARY: This provision in the Alaska labor statutes regulates the operation of employment agencies in the state, which could include agricultural labor contractors.

SPECIFIC TERMS AND CONDITIONS: No one may, for a fee or other compensation, engage in the business of furnishing employment or help without a permit issued by the state. Issuance of such a permit is contingent upon filing of an application, posting of a bond of up to \$10,000, and payment of a \$10 biannual fee. In addition to other prohibited acts, a person who furnishes labor or employment may not (1) write or publish false, fraudulent or misleading information concerning a job opportunity, (2) place a child in employment in violation of the child labor laws, or (3) refer a worker to a workplace where a strike or lockout exists without informing the worker of the existence of the strike or lockout. The law also imposes recordkeeping requirements on employment agencies, and all books and records kept under these provisions are subject to state inspection.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842). The Wage and Hour Administration receives and reviews applications for employment agency permits and may investigate applicants prior to issuance of a permit. The agency also investigates reported violations of the law and is authorized to inspect related books and records. The agency may suspend or revoke permits when violations are confirmed. Willful infractions can result in fines, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

● STATE ENVIRONMENTAL CONSERVATION LAWS (PESTICIDE CONTROL)

STATUTORY CITATION: Alaska Stat. § 46.03.320

RELATED REGULATIONS: Alaska Admin. Code Title 18, §§ 90.010 - 90.990

GENERAL SUMMARY: In order to help conserve, improve and protect the state's environment and natural resources, the state environmental conservation laws establish broad control over the registration, labeling, sale, transportation, handling and use of pesticides. In general, no one may apply any pesticide product in a manner which may endanger the health, welfare or property of another person, or which is likely to pollute the state's air, soil or water. Under statutory rulemaking authority, the state environmental conservation department has adopted standards of particular relevance to agricultural workers, as outlined below.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF APPLICATORS — No person may use a restricted-use pesticide unless the person is certified as a commercial or private applicator, or is under the direct supervision of such an applicator. To qualify for commercial certification, the applicant must attend an approved training session or complete an approved course, and must pass a state-administered written or oral examination covering such topics as pesticide labeling, pesticide hazards and safety, pesticide application equipment and techniques, and pesticide-related laws and regulations. Applicants for certification as a private applicator must pass a similar test, or, as an alternative, must successfully complete an approved training course.

INSURANCE — No one may engage in the commercial or contract spraying or application of an insecticide, herbicide or rodenticide without having liability insurance, in an amount not less than \$500,000 per individual for bodily injury and not less than \$300,000 per incident for property damage.

APPLICATOR RECORDKEEPING — Certified commercial and private agricultural applicators must make a record of each application of restricted-use pesticides. The record must include the product's name and registration number, the date of application, the location of the application, the amount used, the applicator's name and certification number, the crop the product was used on, and related data. Commercial, custom and contract applicators of general-use pesticides are subject to similar recordkeeping requirements.

DRIFT CONTROL — It is illegal to apply a pesticide in a manner that results in pesticide drift. Pesticides may not be applied when the wind speed exceeds (1) the maximum wind speed specified on the product label, or (2) seven miles per hour if there is no maximum speed specified on the label.

PESTICIDE STORAGE AND DISPOSAL — Pesticide applicators must comply with detailed regulatory requirements governing the storage and disposal of pesticides and pesticide containers.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577). Representatives of the Department may, at reasonable times and with the consent of the owner or occupier, enter premises to investigate actual or suspected violations of the pesticide rules established under state law. This agency is empowered to issue compliance orders and to pursue civil action in the state courts against violators who fail to comply with such orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

● STATE ENVIRONMENTAL CONSERVATION LAWS (AERIAL PESTICIDE APPLICATIONS)

STATUTORY CITATION: Alaska Stat. § 46.03.320

RELATED REGULATIONS: Alaska Admin. Code Title 18, § 90.505

GENERAL SUMMARY: In order to help conserve, improve and protect the state's environment and natural resources, Alaska's environmental conservation laws authorize broad controls over the registration, labeling, sale, transportation, handling and use of pesticides. In addition to the general standards outlined above, this authority includes provisions governing pesticide applications by aircraft.

SPECIFIC TERMS AND CONDITIONS: No one may direct, conduct, participate in or allow the use of a pesticide by aircraft or helicopter without first obtaining a permit from the state agency for each such use. The aerial permit application form requires detailed information regarding the product to be used, the location and size of the target area, the method of application, the certification of the aircraft to be used, and related details.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577). Representatives of the Department may, at reasonable times and with the consent of the owner or occupier, enter premises to investigate actual or suspected violations of the pesticide rules established under state law. This agency is empowered to issue compliance orders and to pursue civil action in the state courts against violators who fail to comply with such orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE HEALTH, SAFETY AND HOUSING LAWS (HAZARD COMMUNICATION)

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 - 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1110

GENERAL SUMMARY: Under Alaska's health, safety and housing laws, the state labor department is authorized to adopt and enforce specific occupational safety and health standards conducive to safe and healthful working conditions in all workplaces. These standards must be at least as effective as the corresponding regulations adopted by the U.S. Occupational Safety and Health Administration.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state labor department has adopted standards requiring agricultural employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Except for the following additional protections, Alaska's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and are applicable to all agricultural establishments.

PHYSICAL AGENT DATA SHEETS — For each potentially hazardous "physical agent" present in a particular workplace, Alaska law requires the employer to have available a "physical agent data sheet" that, among other things, identifies the agent, describes the health hazards associated with it, outlines precautions or procedures for avoiding those hazards, and describes emergency or first aid procedures in the event of over-exposure. Among the physical agents most likely to pose a threat to agricultural workers are heat stress, cold stress and ultraviolet radiation.

ACCESS TO DATA SHEETS — Upon an employee's request, the employer must provide a copy of the physical agent data sheet for any such agent to which the worker may be exposed. Likewise, employers must post in the workplace a data sheet for each toxic or hazardous substance or physical agent to which an employee may be exposed there, or post a list of those substances or agents and identify a location where the data sheets can be accessed by employees during the work shift.

TRAINING — An employer must provide employees with information and training on the physical agents present in their work area at the time of their initial assignment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

◎ STATE HEALTH, SAFETY AND HOUSING LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 - 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1010

GENERAL SUMMARY: Under Alaska's health, safety and housing laws, the state labor department is authorized to adopt and enforce specific occupational safety and health standards conducive to safe and healthful working conditions in all workplaces. These standards must be at least as effective as the corresponding regulations adopted by the U.S. Occupational Safety and Health Administration.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Alaska's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and may be enforced against any agricultural establishment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE HEALTH, SAFETY AND HOUSING LAWS (EMPLOYEE SAFETY EDUCATION)

STATUTORY CITATION: Alaska Stat. §§ 18.60.066 – 18.60.068

GENERAL SUMMARY: The state health, safety and housing laws grant most workers in the state the right to information regarding toxic or hazardous substances to which they may be exposed at the workplace, and require employers to provide a safety education program to workers newly assigned to jobs where such exposure may occur.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as their counterparts in non-agricultural industries, every farm employer with one or more employees working in a place not used primarily as a personal residence must make available to any employee, on request, written information on each toxic or hazardous substance to which the worker may be exposed. Before a worker is assigned to a job which could result in exposure to a toxic substance, the employer must provide a safety instruction program that informs the worker of (1) the location, properties and effects of the hazardous or toxic substances to which he or she will be exposed in the workplace, (2) the nature of the operations that could result in exposure and the necessary handling practices or precautions to be observed, and (3) the location, purpose and proper use of personal protective equipment. Finally, each employer must post written information at the job site identifying the toxic substances with which employees may come into contact and advising them of a location, in or near the workplace and accessible to the workers, where product safety and health information may be inspected.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

STATE LABOR LAWS (RETURN TRANSPORTATION)

STATUTORY CITATION: Alaska Stat. §§ 23.10.375 - 23.10.400

RELATED REGULATIONS: Alaska Admin. Code Title 8, Ch. 20

GENERAL SUMMARY: State laws governing employment practices in Alaska include a provision requiring employers to furnish return transportation for certain employees (including agricultural workers) to their place of recruitment upon termination of employment.

SPECIFIC TERMS AND CONDITIONS: An employer who in any way provides or agrees to provide transportation to a person from the place of hire to a point inside or outside the state for purposes of employment must provide the worker with return transportation to the place of hire (or to a mutually agreeable destination) when the job ends or the employment is terminated for good cause. Request for return transportation must be made within 45 days after termination of employment, and return transportation must be provided or financed within 10 days after termination or whenever transportation is available, which ever occurs first.

If a worker voluntarily terminates for just cause, or is terminated for any cause during the term of the employee's contract of employment, and if immediate transportation is unavailable upon the termination, the employee is entitled to subsistence (currently \$100 per day). Subsistence pay may not continue longer than 10 days after termination, or until transportation becomes available, whichever occurs first.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842). The Wage and Hour Administration may investigate complaints by employees claiming a right to return transportation and may take civil court action on an employee's behalf to secure such transportation. An employer found in violation of these provisions may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

○ ALASKA WAGE AND HOUR ACT (MINIMUM WAGE)

STATUTORY CITATION: Alaska Stat. §§ 23.10.050 – 23.10.150

GENERAL SUMMARY: With certain exceptions, the Alaska Wage and Hour Act prescribes a state minimum wage equal to \$9.80 an hour effective January 1, 2017, with the rate adjusted for inflation on September 30 each year and applied to the calendar year that follows. The state minimum wage applies to covered employees whether compensation is paid by the hour, on a piecework basis, or otherwise.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Wage and Hour Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ ALASKA WAGE AND HOUR ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Alaska Stat. §§ 23.10.050 - 23.10.150

GENERAL SUMMARY: Among other provisions, the Alaska Wage and Hour Act establishes certain limitations on hours of employment by employees engaged in commerce or other business, or in the production of goods or materials. In general, employers may not employ workers for more than 40 hours a week or 8 hours a day, unless each such worker is compensated for the overtime at the rate of $1^1/2$ times the worker's regular pay rate.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Wage and Hour Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE WAGE CLAIM LAW

STATUTORY CITATION: Alaska Stat. §§ 23.05.140 - 23.05.280

GENERAL SUMMARY: Chapter 23.05 of the state statutes includes provisions regulating the payment of wages by the state's employers, implicitly including farm operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Unless an employer and employee agree to monthly pay periods under an annual contract, the employee may choose between monthly or semi-monthly pay periods.

FINAL PAY — When an employee is terminated by the employer, all compensation for the employee's services becomes due immediately and must be paid within 3 working days after termination, at the place where the employee is usually paid or at a location agreed on by the employee and the employer. When an employee resigns, payment is due on the next regularly scheduled payday that occurs at least 3 days after the employer received notice of the resignation.

If an employer fails to pay wages due within the 3-day timeframe, the employer may be required to pay the employee a penalty, in the amount of the employee's regular compensation from the time of demand to the time of payment, or for 90 days, whichever is less.

NOTICE OF WAGE PAYMENTS — At the time of hiring, an employer must give employees a written notice showing the day and place of payment and the rate of pay. Any change in these terms must be announced no later than on the payday before the change goes into effect.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842). A worker who has not received wages duly earned may submit a claim to the Wage and Hour Administration, which is required to investigate possible infractions and to take action to impose authorized penalties against employers found in violation. In enforcing these provisions, the agency may hold hearings to investigate wage claims, may subpoena witnesses and records, and may refer cases to the state attorney general for civil prosecution.

STATE WAGE PAYMENT LAWS

STATUTORY CITATION: Alaska Stat. §§ 23.10.040 - 23.10.047

GENERAL SUMMARY: Chapter 23.10 of the state labor statutes imposes additional responsibilities on employers (implicitly including those engaged in agriculture) with respect to the payment of wages.

SPECIFIC TERMS AND CONDITIONS

PAYMENT AND DEPOSIT OF WAGES — Employers of workers performing labor in Alaska must compensate their employees in lawful U.S. currency or with negotiable checks or similar drafts. No wages or advances may be deposited in a bank or comparable institution without the voluntary authorization of the employee.

PAYMENTS TO BENEFIT FUNDS — If an employer agrees with an employee (or group of employees) to make payments to a health, medical, pension or other such fund for the benefit of the employees, the employer may not fail, without just cause, to make such payments. An employer who fails to make benefit payments when due is subject to a lien, in favor of each affected employee, on the employer's earnings and the property used in the operation of the employer's business.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by an apparent violation of these provisions should consult with a private attorney or public legal service provider regarding possible civil action against the employer involved.

Arizona

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Arizona

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CHILD LABOR

ARIZONA CONSTITUTION; YOUTH EMPLOYMENT LAWS

STATUTORY CITATION: Ariz. Const. Art. XVIII, § 2; Ariz. Rev. Stat. §§ 23-230 - 23-242

GENERAL SUMMARY: The state constitution contains a strict, virtually exemptionless ban on employment of individuals under the age of 14 during the hours in which the public schools are in session, and prohibits persons under age 14 from working more than 8 hours in any day. Chapter 2, Article 3 of the state labor statutes imposes additional and more complex restrictions on the employment of minors under 18.

PROVISIONS APPLICABLE TO AGRICULTURE: Both the constitutional and statutory child labor provisions implicitly apply to farm employment, and limit the use of child labor in agriculture, to the same extent as in other sectors.

WORKERS UNDER 14 YEARS OF AGE — Individuals under 14 are subject to the same child labor restrictions as workers age 14 and 15, but may not be employed at all during local school hours.

WORKERS 14 AND 15 YEARS OF AGE — Unless a variance is granted by the state, no one 14 or 15 years of age may be employed or allowed to work in any occupation determined hazardous to workers under 16, which among other occupations includes (1) activities involving work from a ladder more than 5 feet in height, (2) operating a tractor of more than 20 horsepower that is not equipped with a rollover protective structure and seatbelts, (3) operating a combine, corn picker, cotton picker or comparable power farm machinery, (4) riding on a tractor as a helper, or driving a bus, truck or automobile, and (5) handling hazardous agricultural chemicals. When school is in session, workers age 14 and 15 may not be employed more than 3 hours on any school day or more than 18 hours a week; during periods when school is not in session, they may not be employed more than 8 hours a day or 40 hours a week. Furthermore, employment of 14- and 15-year-olds is not permitted between 9:30 p.m. and 6:00 a.m. on a night just before a school day, nor between 11:00 p.m. and 6:00 a.m. on any other night.

WORKERS 16 AND 17 YEARS OF AGE — Currently, none of the highly hazardous occupations in which employment of 16- and 17-year-old workers is prohibited includes activities generally associated with crop production, and there are no limitations on hours of employment for workers in this age group.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). This agency is authorized to conduct inspections and investigations regarding the use or alleged use of illegal child labor. The Department may issue a cease and desist order in case of violation, which may include a civil money penalty of up to \$1,000 per violation. Any such order that becomes final may be enforced in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 15-801 - 15-808

GENERAL SUMMARY: The state compulsory school attendance law generally requires every person who has custody of a child between the ages of 6 and 16 to send the child to a public school (or an allowable equivalent) for the full time school is in session in the school district in which the child resides. Exceptions to this requirement include, among others, cases where the child is over 14 years of age and is employed at a lawful wage-earning occupation with the consent of the person who has custody of the child.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance provisions apply to parents or guardians of all 6- to 16-year-old minors, unless covered by one or more of the law's specific exemptions, none of which singles out agriculture for special treatment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local school districts, normally through attendance officers employed by their respective school boards. Attendance officers are authorized to enter any workplace where children may be employed and to make arrests for violations. Non-compliance with the compulsory attendance law is a misdemeanor.

O MINORS' MINIMUM WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-311 - 23-329

GENERAL SUMMARY: In response to a petition signed by 20 or more workers engaged in a particular occupation, the state industrial commission is required to investigate the wages being paid to workers under the age of 18 (other than part-time workers who are students) employed in that occupation. If the state agency determines that a substantial number of such minors are receiving wages that are less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health, the agency must appoint a wage board to gather additional evidence and recommend minimum fair wage standards for minors in that occupation. The state agency is then authorized to publish an interim minimum fair wage order, which becomes mandatory if no appeal has been filed after 60 days.

With few exceptions, employers subject to such an order must pay no less than the prescribed minimum fair wage to employees under 18 years of age, and minors paid less than the minimum wage are entitled to recover three times full pay figured at the minimum wage, plus court costs and attorney's fees, less the wages actually paid by the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: The authority of the administering agency to review and set minimum wage levels for minors **does not apply** to occupations in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Industrial Commission of Arizona, Phoenix, Arizona 85007. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

ARIZONA WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-901 – 23-1104

GENERAL SUMMARY: The Arizona workers' compensation statute declares the right of covered employees or their survivors to receive compensation for work-related injuries, illness or death, and defines the type and amount of benefits payable. In the case of an injured minor who is working at an age or at an occupation not legally permitted, the worker is entitled to additional compensation in an amount equal to 50 percent of the compensation the injured worker would otherwise receive.

PROVISIONS APPLICABLE TO AGRICULTURE: The provision requiring additional workers' compensation benefits for injured minors employed in violation of the state's child labor laws applies to agricultural workers and non-agricultural workers alike.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — When a farm operator or other agricultural establishment procures work to be done by a contractor over whose work the farm operator retains supervision and control, the contractor and the workers in the contractor's crew are regarded under the workers' compensation law as employees of the farm operator, who is therefore the party liable for coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661). The Commission is responsible for monitoring, regulating and adjudicating claims for compensation for work-related injuries, illnesses and death, and for processing and paying claims against uninsured employers. This agency is also authorized to assure compliance by employers subject to the financial liability this law imposes.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

ARIZONA CIVIL RIGHTS ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 41-1401 - 41-1493.04

GENERAL SUMMARY: The Arizona Civil Rights Act prohibits, among other things, employment discrimination because of race, color, religion, sex, age, national origin, disability, or genetic testing results. The Act generally applies to agricultural employers and employees to the same extent as their non-agricultural counterparts.

SPECIFIC TERMS AND CONDITIONS

COVERAGE — With few exceptions, employers that have 15 or more employees for each working day in 20 or more different calendar weeks in the current or preceding calendar year are subject to the Act. Notably, the prohibition against sexual harassment applies to employers with *one or more* employees in the current or preceding calendar year.

PROHIBITED PRACTICES — Unlawful practices in which subject employers may not engage include, among others, (1) firing an employee, or failing or refusing to hire a job applicant, because of the employee's or applicant's race, color, religion, sex, age over 40 years, national origin, disability, or genetic testing results, (2) discriminating on any of the above-specified grounds with respect to an individual's compensation, terms, conditions or privileges of employment, (3) limiting, segregating or classifying employees or job applicants based on any of the above-specified grounds, in any way which would tend to curtail job opportunities or otherwise adversely affect employment status, and (4) failing or refusing to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified employee or applicant unless the employer can demonstrate that the accommodation would impose an undue burden.

Employers are also prohibited from discriminating against employees and job applicants because the employee or applicant has opposed any prohibited employment practice, or has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing involving an alleged prohibited employment practice.

Workers are also protected against similar unlawful employment practices by employment agencies (which can include farm labor contractors), and by labor organizations with 15 or more members. The Act describes circumstances under which hiring, classification or referral of employees or job applicants on the grounds of religion, sex or national origin may be permissible where such grounds are bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise.

COMPLAINTS — A charge of employment discrimination under the Act must be filed with the state enforcement agency within 180 days after the alleged unlawful employment practice occurred. If, after investigation, there is reasonable cause to believe a charge is valid, the agency must attempt to correct the problem by informal methods of conference, conciliation and persuasion. If no such resolution has been reached within 30 days after the finding of reasonable cause, the agency may bring civil court action against the employer or other entity named in the charge.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Civil Rights Division, Office of the Attorney General, Phoenix, Arizona 85007 (877-491-5742). The Division is authorized to examine personnel records, subpoena witnesses and documents, hold hearings, and take related measures to enforce compliance with the Arizona Civil Rights Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If a complaint is dismissed by the Division, or if the Division has not filed civil action against or entered into a conciliation agreement with the employer or other entity involved within 90 days after filing of the complaint, the Division must so notify the worker; within 90 days thereafter, the worker may file a private suit to enforce compliance. Whether brought by the Division or by the complainant, court action under the Act must commence no later than one year after the alleged violation.

ARIZONA EQUAL WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-340 - 23-341

GENERAL SUMMARY: Chapter 2, Article 6.1 of Arizona's labor laws provides that no employer may pay any person a wage less than the rate paid to employees of the opposite sex at the same workplace, for the same quantity and quality of work in the same classification. Wage variations that result in different pay for male and female employees in the same classification are permitted, however, when the wage differential is based on seniority, ability, difference in duties, difference in the shift worked, or other reasonable factors other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal wage law applies to all employers and employees in Arizona, including those involved in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). Employees who believe they have been discriminated against in the payment of wages or salaries because of their sex may file a complaint with the Department, which is required to investigate claims and take necessary action to enforce payment of any sums determined due and unpaid in accordance with this law. An employee has 6 months after an alleged violation to file a complaint with the Department, but an employer cannot be held liable for any pay due for more than 30 days before the employee provides the employer with written notice of a claim to unpaid wages. Furthermore, the burden of proof is on the employee to establish that the differentiation in pay is based on sex and not on other differences or factors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Recovery of unpaid wages resulting from unlawful sex discrimination may be pursued by the affected worker in civil court, using an outside attorney or public legal service provider.

HEALTH AND SAFETY

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-603

GENERAL SUMMARY: Under the Arizona Occupational Safety and Health Act, it is generally every employer's duty to furnish each employee with employment and a place of employment free from recognized hazards that cause or could cause death or serious physical harm to employees, and to comply with specific occupational safety and health standards that are adopted by the administering agency under the Act's rulemaking authority and are applicable to the employer's industry or workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial commission has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Arizona's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251). ADOSH personnel are empowered to inspect places of employment and question employees to determine employer compliance with the Act and regulations adopted under its authority. Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by the agency. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation. Employers cited for violations are subject to administrative fines. Willful or repeated infractions which result in an employee's permanent disability or death can result in additional civil penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (FIELD SANITATION)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-670

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Every agricultural establishment where a crew of 5 or more workers is performing hand-labor operations in one location on any given day must provide sanitation facilities to the workers, as described in brief below.

DRINKING WATER — For every worker at the job site, covered employers are required to provide no less than 2 gallons of potable drinking water, at a temperature of no more than 80 degrees F. and at a readily accessible location. The water must meet prescribed standards of purity and must be dispensed in single-use drinking cups or by fountains.

TOILET AND HANDWASHING FACILITIES — For workers who perform field work for a period of more than 3 hours during the day (including transportation time to and from the field), there must be at least one toilet and one handwashing facility for every 40 such workers or fraction thereof. Toilet and washing equipment must be located in close proximity to each other, and within 1/4 mile of each employee's place of work in the field. If the terrain prevents the employer from complying with the 1/4-mile distance limit, facilities must be located at the point nearest the workers where entry by vehicle is possible. Sanitary facilities must be kept clean and fully operational, and workers must be allowed reasonable opportunities during the workday to use them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251). Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by ADOSH. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (SHORT-HANDLED HOES)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-605

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Except in greenhouse or nursery operations, the use of a hoe with a handle less than 4 feet in length for weeding or thinning crops on farms is prohibited.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the industrial commission has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Arizona's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251). Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by ADOSH. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

→ ARIZONA EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-601 - 23-799

GENERAL SUMMARY: The Employment Security Act provides for the payment of unemployment insurance benefits to covered workers who are able to work, available for work, and involuntarily unemployed through no fault of their own. To help finance the state's UI system, the Act generally requires mandatory contributions to the unemployment compensation fund by employers who (1) employed one or more employees for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, or (2) paid at least \$1,500 in wages in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who either (1) employed 10 or more workers for all or part of a day in 20 or more different weeks in the current or preceding calendar year, or (2) paid at least \$20,000 in cash wages for agricultural labor in a calendar quarter in the current or preceding calendar year, must pay unemployment insurance contributions to the state on behalf of their workers. Only the first \$7,000 in wages paid to each employee is subject to taxation.

ELIGIBILITY FOR BENEFITS — Generally, an unemployed agricultural worker, like any other jobless individual, is eligible to receive weekly unemployment insurance payments if the worker (1) is able to work, available for work, and actively seeking employment, (2) has, over the first four of the last five completed calendar quarters prior to filing a claim, received from employers subject to UI taxes total wages equal to at least $1^{1}/2$ times the amount of wages received in the one quarter in which wages were highest, and (3) has, during one of the last five completed calendar quarters prior to filing the claim, earned at least 390 times the state hourly minimum wage from employers subject to UI taxes.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is equal to $^{1}/_{25}$ of the person's total insured wages received during the highest-wage quarter, up to a maximum of \$240 per week. Any part-time job earnings in excess of \$30 received during a week when unemployment benefits are payable are subtracted from the regular weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employer Engagement Administration, Department of Economic Security, Phoenix, Arizona 85012 (602-771-6606). This agency is responsible for determining employers' liability for payment of unemployment insurance contributions, and for collecting contributions from liable employers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Workforce Administration, Department of Economic Security, Phoenix, Arizona 85007 (877-600-2722). This agency is responsible for processing UI claims and appeals, and for issuing UI benefit payments. Unemployed workers who believe they are eligible for benefits may file a claim online at www.azui.com, or by visiting a local office of the Department of Economic Security.

ARIZONA WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-901 - 23-1104

GENERAL SUMMARY: The Arizona workers' compensation statute declares the right of covered employees or their survivors to receive compensation for work-related injuries, illness or death, and defines the type and amount of benefits payable. The law places responsibility for payment of compensation on the employer but authorizes the commercial marketing of prescribed workers' compensation insurance policies which will satisfy the employer's liability. An employer subject to the Act who fails to secure workers' compensation insurance coverage and is sued for compensation by an injured employee loses most legal defenses otherwise available under common law. Proof of the employee's injury constitutes prima facie evidence of negligence on the employer's part.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as most other employers, the workers' compensation law applies to farm operators and other agricultural establishments who hire one or more workers. Such employers must either cover their employees with a workers' compensation insurance policy, the cost of which may not be deducted from the employees' pay, or furnish proof to the state administering agency that they have the financial ability to pay compensation directly to injured employees in the event of an accident. In either case, agricultural workers who are injured in an accident or disabled by illness arising out of and in the course of their employment (or the dependents of agricultural workers whose death results from such an accident or illness) are generally entitled to receive periodic cash payments or death benefits, medical and hospital services, medicines, and funeral expenses in accordance with detailed specifications and limitations spelled out in the statute.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — When a farm operator or other agricultural establishment procures work to be done by a contractor over whose work the farm operator retains supervision and control, the contractor and the workers in the contractor's crew are regarded under the workers' compensation law as employees of the farm operator, who is therefore the party liable for coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661). The state industrial commission is responsible for monitoring, regulating and adjudicating claims for compensation for work-related injuries, illnesses and death, and for processing and paying claims against uninsured employers. This agency is also authorized to assure compliance by employers subject to the financial liability this law imposes.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENTS LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-521 - 23-536

GENERAL SUMMARY: With the objective of preventing fraud, misrepresentation, false statements and other wrongful acts, Chapter 3, Article 2 of the state labor statutes regulates the operations of private employment agents in Arizona, which may include farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for a person, firm or other entity to charge or collect a fee from anyone seeking employment, as compensation for providing workers with job information or furnishing employers with information that would enable them to secure help, without first obtaining an employment agent's license from the state. In part, issuance of a license requires the applicant to pass a written examination covering applicable labor laws and regulations, to post a cash deposit or surety bond, and to pay a license fee. An employment agent's license may be suspended or revoked, or renewal of the license may be denied, for, among other acts, making false or misleading statements to workers regarding the nature, location, duration, wages or other conditions of prospective employment, or misrepresenting any other material fact to any person seeking employment or furnishing jobs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). The Department is charged with processing new and renewal applications for employment agent licenses, including administration of the license examination and collection of fees and deposits. The agency has authority to make investigations and conduct hearings in connection with the issuance, renewal, suspension or revocation of a license. Licensees who fail to comply with these provisions are subject to administrative fines, and any individual who acts as an employment agent in the state without a license is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

→ ARIZONA AGRICULTURAL EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-1381 - 23-1395

GENERAL SUMMARY: Declaring, in part, that agricultural employees are free to organize and enter into collective bargaining contracts establishing their wages and other terms of employment (or to refrain from such activities), the Arizona Agricultural Employment Relations Act sets up a state-administered process for elections to resolve questions concerning representation of agricultural employees, defines the organizational and collective bargaining rights of employees and the management rights of employers, prohibits certain specified unfair labor practices by both employers and labor organizations, and regulates the conduct of contract negotiations between employers and certified representatives of their employees.

The Act applies to agricultural employers that employed 6 or more agricultural employees for a period of 30 days during the preceding six months, as well as to independent contractors (including farm labor contractors or crew leaders) who provide labor and services on one or more farms and employed 6 or more farm employees for 30 days during the preceding six months.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Among other rights, agricultural employees are free to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, or to bargain directly for themselves. Farmworkers also have the right to refrain, without interference, from any or all such activities.

RIGHTS OF EMPLOYERS — Among other rights, agricultural employers are entitled to manage, control and conduct their farming operations, to hire, transfer or fire their employees in accordance with the employees' ability, to determine the type of equipment or machinery to be used, and to set the standards and judge the quality of work.

ISSUES SUBJECT TO NEGOTIATION — The terms of employment relating to wages, hours, conditions of work, and matters of worker safety, sanitation and health, as well as the establishment of grievance procedures directly relating to the job, are subject to negotiation between employers and workers or their representatives.

ELECTIONS — If a valid question of representation exists, the state agency administering the Act must call an election by secret ballot whenever:

- (1) An agricultural employee, a group of agricultural employees, or a labor organization acting in their behalf presents a petition alleging (a) that at least 30 percent of the agricultural employees in a particular employment unit wish to be represented and that their employer declines to recognize their representative, or (b) that the individual or labor organization currently certified or recognized by the employer as the bargaining representative is no longer a representative; or
- (2) An agricultural employer presents a petition alleging (a) that one or more individuals or labor organizations have presented the employer with a claim to be recognized as the employees' representative, or (b) that an individual or labor organization previously certified as the bargaining representative is no longer a representative.

In any representation election, voters must be offered an opportunity to vote "no union."

UNFAIR LABOR PRACTICES BY EMPLOYERS — In addition to other prohibited acts, agricultural employers may not interfere with the exercise of employees' rights under the Act and related provisions, may not discourage or encourage membership in any labor organization, and may not refuse to bargain collectively with certified representatives of their agricultural employees.

UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS — Among other prohibited acts, labor organizations and their agents (1) may not intimidate, restrain or coerce agricultural employers in the exercise of their rights under the Act, (2) may not intimidate, restrain or coerce agricultural employees in the exercise or enjoyment of their rights under this law and related provisions, (3) may not refuse to bargain collectively with an agricultural employer, provided the labor organization is the certified representative of the employer's employees, (4) may not engage in a secondary boycott, and (5) may not call a strike unless a majority of the employees within the bargaining unit have first approved such a strike by secret ballot.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Employment Relations Board, Phoenix, Arizona 85007 (602-542-3262). The Board is responsible for processing petitions for representation and decertification elections, supervising all such elections, enforcing employee and employer rights under the Act, and enforcing compliance with the Act's unfair labor practices provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

ARIZONA PESTICIDE CONTROL LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-361 - 3-377

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-101 – 3-3-506

GENERAL SUMMARY: Chapter 2, Article 6 of the state agricultural statutes broadly governs the sale, processing, storage, transportation, handling and application of pesticides in Arizona, and authorizes the agriculture department to adopt specific rules regulating pesticides.

SPECIFIC TERMS AND CONDITIONS: Under the rulemaking authority referred to above, the department has adopted standards relating to pesticide applicators and general use of pesticides, as outlined below.

REGULATED GROWER PERMITS — Commercial growers of agricultural commodities who buy pesticides or contract for the application of pesticides on their crops are prohibited from ordering, purchasing or receiving any pesticide unless they have a valid regulated grower permit issued by the state.

APPLICATOR LICENSING — No person may apply pesticides for hire without being licensed by the state as a custom applicator. Among other prerequisites, issuance of a license requires successful completion of an examination on the laws and rules relating to the application and use of pesticides, pesticide safety, calibration of equipment, and actual use of application equipment. Custom applicators must also have prescribed liability insurance.

APPLICATOR CERTIFICATION — Apart from testing and insurance requirements, custom applicators must also be certified as commercial applicators (or have someone employed who is a certified commercial applicator), which entails an examination on such matters as pesticide labeling, pesticide safety and toxicity, protective equipment and clothing, poisoning symptoms, and first aid. Likewise, agricultural producers who intend to apply restricted-use pesticides to their crops must pass a similar examination and meet other requirements for certification as private applicators.

EQUIPMENT LICENSING — Equipment used in the commercial application of pesticides must be licensed prior to use for that purpose. The license must be displayed in plain sight on the equipment and must be removed any time the license of the applicator in control of the equipment is suspended, revoked or not renewed.

APPLICATOR RECORDKEEPING — After each application of a restricted-use pesticide, private agricultural producers must complete an application record on a state-approved form, documenting such information as the applicator's name, the name of the crop and number of acres treated, the name of the product used, the application rate and total volume per acre, the wind speed and direction, the date and time of treatment, and the location of the field treated.

PESTICIDE STORAGE AND DISPOSAL — No one may dump, store or leave unattended any pesticide or pesticide container at any place or under any condition where it presents a hazard to persons, animals or property.

GENERAL RESTRICTIONS ON PESTICIDE USE — It is illegal for anyone to use or apply a pesticide in a manner inconsistent with the product's labeling. Growers are generally forbidden to allow any employee not wearing protective clothing required by a pesticide label, to enter any field treated with the product prior to expiration of the assigned re-entry period. Before applying pesticides, growers must ensure that all persons and livestock under their supervision or control have been removed from the area to be treated.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578). This agency is authorized to conduct investigations, on complaint or on its own initiative, regarding violations of the pesticide control law. A copy of every such complaint filed with the agency must be forwarded by the agency to the state attorney general, who must be consulted before final disposition of each case to ensure that proper action is taken. Enforcement measures available to the agency include citation, suspension or revocation of the pesticide applicator's license, and civil money penalties. Violators may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Anyone who is adversely affected may bring civil action in state court against a person alleged to be in violation of the pesticide control law or its regulations, or against the enforcement agency for alleged failure to perform any non-discretionary duty under the law. However, no private action may be undertaken before 60 days after the complainant has filed a complaint with the agency and notified the alleged violator, or if within those 60 days the agency begins and diligently performs the duty which is the subject of the complaint, nor may private civil action be taken if the attorney general is diligently prosecuting the case before the agency or in state court.

ARIZONA PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-361 - 3-377

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-101 – 3-3-506

GENERAL SUMMARY: Aside from provisions regulating the ground use of pesticides, the state pesticide control law and the associated regulations contain explicit language regarding the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person may operate an aircraft for the purpose of applying pesticides to agricultural crops unless the person has a valid agricultural aircraft pilot license and a valid commercial applicator certification, both issued by the state. To qualify for such a license, the applicant must pass an examination testing knowledge and understanding of pesticide use and safety, safe flight and application procedures, pesticide laws and regulations, and other subjects. Aerial applicators must also have a valid commercial pilot's certificate issued by the Federal Aviation Administration.

AIRCRAFT LICENSING AND CERTIFICATION — Like other pesticide application equipment, any aircraft used to apply pesticides for hire must have a valid state equipment tag, as well as an airworthiness certificate issued by the Federal Aviation Administration.

BUFFER ZONES — Certain designated pungent or highly toxic pesticide products may not be applied from the air within prescribed distances from schools, daycare centers, health care institutions and residences.

PESTICIDE MANAGEMENT AREAS — Within designated urban areas that are adjacent to farmlands and have a history of problems or complaints concerning aerial pesticide applications, applicators must notify the state agency at least 24 hours prior to applying certain chemical compounds from the air.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578). This agency is authorized to conduct investigations, on complaint or on its own initiative, regarding violations of the pesticide control law. A copy of every such complaint filed with the agency must be forwarded by the agency to the state attorney general, who must be consulted before final disposition of each case to ensure that proper action is taken. Enforcement measures available to the agency include citation, suspension or revocation of the pesticide applicator's license, and civil money penalties. Violators may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Anyone who is adversely affected may bring civil action in state court against a person alleged to be in violation of the pesticide control law or its regulations, or against the enforcement agency for alleged failure to perform any non-discretionary duty under the law. However, no private action may be undertaken before 60 days after the complainant has filed a complaint with the agency and notified the alleged violator, or if within those 60 days the agency begins and diligently performs the duty which is the subject of the complaint, nor may private civil action be taken if the attorney general is diligently prosecuting the case before the agency or in state court.

STATE AGRICULTURAL SAFETY LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-3101 - 3-3125

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-1001 - 3-3-1012

GENERAL SUMMARY: Chapter 17, Article 1 of the state agriculture statutes authorizes adoption and enforcement of rules prescribing safe work practices for employees who mix, load, apply, store or otherwise handle agricultural pesticides, and for workers who may be exposed to pesticides when or after they are applied.

SPECIFIC TERMS AND CONDITIONS: In addition to enforcing the worker protection standards prescribed by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards), the state agriculture department has adopted additional rules regulating the safety and health of workers exposed to pesticides.

PESTICIDE SAFETY INFORMATION — Agricultural employers are required to provide their workers (other than certified applicators or trainers) with prescribed safety information before the workers enter an agricultural area where pesticides have been applied or a restricted-entry interval has been in effect within the last 30 days. The information must include the identity of the pesticides involved, as well as how workers may prevent exposure by (1) following directions or signs, (2) washing hands, (3) using protective clothing, (4) bathing after work, (5) washing work clothes, and (6) following emergency procedures in the event of spills or other over-exposure.

PESTICIDE SAFETY TRAINING — Agricultural employers must provide prescribed safety training to each worker who enters a pesticide-treated area. Instruction must be provided in a language easily understood by the worker and must cover (1) pesticide hazards and effects, (2) common symptoms of pesticide poisoning, (3) emergency first aid for pesticide injuries or poisoning, and (4) the requirements related to pesticide application and entry restrictions and posting of warnings. An EPA-approved training verification card must be issued to each worker who completes the training.

NOTIFICATIONS — The owner or operator of an agricultural establishment that utilizes the services of a farm labor contractor must notify the contractor of the restrictions on entering a pesticide-treated area, if the area is within 1/4 mile of where workers will be working and the treated area is not posted as required or allowed under EPA regulations. The contractor, in turn, is required to notify the workers regarding the identity of the pesticide product used, the date and time the product was or will be applied, and the product's restricted-entry interval.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Arizona's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: The state industrial commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Arizona's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

STATE LABOR LAWS (AGRICULTURAL OPERATIONS)

STATUTORY CITATION: Ariz. Rev. Stat. § 23-286.01

GENERAL SUMMARY: Article 5 of Arizona's labor statutes includes a provision limiting the hours of drivers transporting agricultural commodities or farm supplies.

SPECIFIC TERMS AND CONDITIONS: In general, a person transporting agricultural commodities or farm supplies may not drive more than 16 hours straight, and must remain off-duty for at least 8 consecutive hours before starting another shift. Likewise, no such driver may drive more than 112 hours in any consecutive 7-day period.

Exception — During a period of not more than 28 consecutive days (or two periods totaling 28 days in a calendar year), a driver transporting "special situation" farm products from the field to cooling facilities may drive for not more than 12 hours during any 16-hour workday.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Arizona Department of Public Safety, Phoenix, Arizona 85009 (602-223-2522). The director of the Department of Public Safety has authority to waive the maximum on-duty time limits applicable to any 7-day period if an emergency exists due to inclement weather, natural disaster or an adverse economic condition that threatens to disrupt the orderly movement of farm products during harvest for the duration of the emergency. The term "emergency" does not include a strike or labor dispute.

WAGES AND HOURS

ARIZONA MINIMUM WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-362 - 23-365

GENERAL SUMMARY: Under a measure approved by the voters of Arizona in 2006, most employers in the state are required to pay no less than the state minimum wage for every hour of employment. A similar ballot initiative approved by voters in November 2016 raises the minimum wage in four steps:

Effective January 1, 2017: \$10.00 per hour Effective January 1, 2018: \$10.50 per hour Effective January 1, 2019: \$11.00 per hour Effective January 1, 2020: \$12.00 per hour

On January 1 each year beginning in 2021, the existing minimum wage will be adjusted to account for inflation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Arizona minimum wage applies to agricultural and non-agricultural employees alike.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). An employee who has not received the state minimum wage may file a wage claim with the state labor department. A wage claim form may be downloaded from the agency's website, at http://test-az-ica.pantheonsite.io/forms/labor3303.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover an amount equal to *three times* the amount of the unpaid wages, plus interest. A civil suit to recover unpaid wages generally must be commenced no later than 2 years after the violation last occurred.

WAGE PAYMENT LAWS

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-350 - 23-361.02

GENERAL SUMMARY: Article 7 of the state labor laws regulates paydays, methods of payment, and withholding from wages by Arizona employers, implicitly including those engaged in farming and other agricultural activities.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must designate at least two days per month, not more than 16 days apart, as fixed paydays.

WAGE PAYMENTS — All wages due an employee on each regular payday must be paid on that day, in lawful U.S. currency or by negotiable check. Wages may be paid by deposit in an insured financial institution only with the employee's voluntary prior written consent, and in such cases the employee must receive a statement of earnings and withholding.

WITHHOLDING — No employer may withhold or divert any portion of a worker's wages unless the employer is authorized to do so by federal or state law, the employer has the worker's written authorization to do so, or there is a bona fide and reasonable dispute as to the amount of wages due.

TERMINATION — When an employee is discharged from employment, final wages due must be paid within 7 working days or the end of the next regular pay period, whichever is sooner. When a worker quits the job, final wages due must be paid no later than the next regular payday for the pay period during which the worker quits. If requested by the worker, final wages must be paid by mail.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). Any worker who has not been paid in accordance with these provisions may file a claim with this agency, which is authorized to investigate and issue an order against the employer which has the same force and effect as a court judgment. The agency will act only on claims involving up to \$2,500 and only if the complaint is filed within one year of the accrual of the claim. The wage claim form may be downloaded from the agency's website, at http://test-az-ica.pantheonsite.io/forms/labor3303.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover an amount equal to three times the amount of the unpaid wages.

ARIZONA PROPERTY LAWS (FARM SERVICES LIENS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 33-901 – 33-909

GENERAL SUMMARY: The Arizona property laws include a provision for farm service liens.

SPECIFIC TERMS AND CONDITIONS: A person who performs labor in connection with planting of a crop on agricultural land and who does not receive wages due for such services is entitled to a lien on the crops produced on that land in settlement of all unpaid amounts. A worker claiming a lien under this provision must file a claim with the county recorder for the county in which the land is located within 10 days after the labor is performed. Within 6 months after filing the claim, the worker must bring suit against the farm operator or landowner in order to enforce the lien.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As noted above, a worker who wishes to collect unpaid wages under these provisions must take legal action in civil court, using a private attorney or a public legal service provider.

→ ARIZONA INCOME TAX ACT OF 1978

STATUTORY CITATION: Ariz. Rev. Stat. §§ 43-101 - 43-1606

GENERAL SUMMARY: The Arizona Income Tax Act authorizes the taxation of income in the state and generally requires the withholding of income taxes from employees' wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's withholding provisions do not apply to wages paid to part-time or seasonal employees engaged solely in the planting, cultivation, harvest or field packing of seasonal agricultural crops, unless their principal duties consist of operating mechanically driven devices in such operations. Hence, most farmworkers and their agricultural employers are exempt from state income tax withholding.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite the general exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Arizona Department of Revenue, Phoenix, Arizona 85007 (602-542-5551; toll-free 800-352-4090).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

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Arkansas

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Ark. Code §§ 11-6-101 – 11-6-116

RELATED REGULATIONS: Ark. Code R. § 2.501

GENERAL SUMMARY: The Arkansas child labor provisions contain limitations on the days, hours and occupations in which persons under the age of 18 may be employed, and prescribe penalties on employers, parents or guardians who permit minors to work in violation of those restrictions. With two notable exceptions, the child labor laws make little distinction between agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

CHILDREN UNDER 14 — In general, no one under 14 years of age may be employed or permitted to work in gainful employment at any time.

CHILDREN AGE 14 and 15 — No child age 14 or 15 may be permitted to work for more than 6 days or 48 hours in any week, nor more than 8 hours in any day. Employment of 14- and 15-year-olds is authorized only between the hours of 6:00 a.m. and 7:00 p.m. on any day preceding a school day, and between 6:00 a.m. and 9:00 p.m. before a non-school day.

CHILDREN AGE 16 and 17 — Minors 16 and 17 years of age are prohibited from working more than 6 days or 54 hours a week, or for more than 10 hours a day. On any day preceding a school day, such persons may be employed only between the hours of 6:00 a.m. and 11:00 p.m.; on nights preceding non-school days, they may generally work throughout the night, except in certain retail, food, entertainment and gambling establishments and places where alcohol is served.

EXCEPTIONS — The provisions of the state child labor laws that (1) require employers to obtain an employment certificate from the state labor department before employing any 14- or 15-year-old child, and (2) bar the employment of such children in certain hazardous occupations, **do not apply to work in seasonal agricultural labor.**

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). This agency is authorized to enter and inspect workplaces where minors may be employed, and to issue complaints against employers who unlawfully utilize child labor and against parents who permit their children to engage in such employment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ark. Code §§ 6-18-201 – 6-18-231

GENERAL SUMMARY: With few exceptions, the state compulsory school attendance law requires every parent or other person residing in Arkansas and having custody of a child 5 through 17 years of age (both inclusive) to send such child to a public, private, parochial or home school.

PROVISIONS APPLICABLE TO AGRICULTURE: This law makes no exceptions categorically applicable to agricultural workers or their children. Farmworkers are obligated to assure their children's attendance at school, and children customarily employed in agriculture are not excused from school attendance by virtue of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school districts. Public school districts may enter into cooperative agreements with local law enforcement agencies to help improve school attendance, and law enforcement officers may stop and detain any unsupervised school-age child who is off school premises during school hours and request documentation excusing the child's absence from school.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ PUBLIC HEALTH AND WELFARE LAWS (HAND HARVESTING BY CHILDREN)

STATUTORY CITATION: Ark. Code § 20-20-303

GENERAL SUMMARY: Chapter 20 of Arkansas' public health and welfare statutes includes a provision relevant to the employment of children in agriculture, and which appears to constitute another exception to the state child labor laws outlined above.

SPECIFIC TERMS AND CONDITIONS: A child 12 years of age or older may be employed to hand-harvest a short-season crop in Arkansas, provided that (1) school is not in session, (2) the employer has obtained the consent of the child's parents, (3) the employer has obtained an employment certificate issued by the state labor department, (4) any pesticide or other agricultural chemical used on the crop has been approved by the state health department as safe for the occupational exposure of 12- and 13-year-old hand harvesters, (5) any re-entry period set for the chemical by the health department has expired before the child is allowed to work, and (6) the chemical has been applied in compliance with the worker protection standards prescribed by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). This agency is responsible for issuing youth employment certificates in Arkansas, and for enforcing other provisions in the state's child labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Arkansas Department of Health, Little Rock, Arkansas 72205 (501-661-2000). This agency is responsible for testing, approving and establishing safe re-entry periods for pesticide products used where 12- and 13-year-old children are to be employed in hand-harvest operations.

CIVIL RIGHTS

ARKANSAS CIVIL RIGHTS ACT OF 1993

STATUTORY CITATION: Ark. Code §§ 16-123-101 - 16-123-108

GENERAL SUMMARY: Among others to whom this law applies, an employer who employs 9 or more workers in Arkansas in each of 20 or more calendar weeks in the current or preceding year is liable for damages if the employer (1) deprives a person of his or her rights under the state constitution, (2) intimidates, harasses or commits violence against the person where the act is motivated by racial, religious or ethnic animosity, or (3) commits an act of employment discrimination against a person on the basis of race, religion, national origin, gender, or the presence of any sensory, mental or physical disability.

PROVISIONS APPLICABLE TO AGRICULTURE: The Arkansas Civil Rights Act protects farmworkers to the same extent as employees in any other industry.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal to intimidate, threaten, coerce, interfere with, or discriminate against an individual because he or she, in good faith, has filed a complaint under this law, testified or participated in any other way in a related investigation or hearing, or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The Arkansas Civil Rights Act can be enforced only through civil action in state court, using a private attorney or public legal service provider. Depending on the facts of the case, the aggrieved party may be entitled to collect compensatory and punitive damages, as well as court costs and attorney's fees.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EQUAL PAY LAW

STATUTORY CITATION: Ark. Code § 11-4-601

GENERAL SUMMARY: Employers in Arkansas must pay their employees equal compensation for equal services. Employers are prohibited from discriminating against an employee in wages or compensation solely on the basis of the employee's sex. PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law makes no distinction between agricultural and non-agricultural workers or employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. Violations are classed as a misdemeanor, and each day a violation continues constitutes a separate offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE DISCRIMINATION LAW

STATUTORY CITATION: Ark. Code §§ 11-4-607 - 11-4-612

GENERAL SUMMARY: Most employers in the state are prohibited from discriminating in the payment of wages solely because of a worker's sex. Covered employers are liable for any wages withheld in violation of this provision, plus liquidated damages, attorney's fees and court costs, if settlement through civil legal action is required.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination law **does not apply** to persons engaged in agricultural service, or in temporary or seasonal employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

○ STATE LABOR LAWS (SAFE PLACE OF EMPLOYMENT)

STATUTORY CITATION: Ark. Code § 11-2-117

GENERAL SUMMARY: Most firms and businesses in Arkansas that employ 5 or more workers are required to furnish safe employment and to do everything reasonably necessary to protect the life, health, safety and welfare of their employees. The law permits the labor department to adopt specific occupational safety rules, imposes employer recordkeeping responsibilities, and prescribes penalties for violations.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions **do not apply** to any employer engaged exclusively in farming operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *None.* According to the Arkansas Department of Labor, the state's authority to enforce these provisions is effectively preempted by the U.S. Occupational Safety and Health Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ STATE LABOR LAWS (TOILET ROOMS)

STATUTORY CITATION: Ark. Code § 11-5-112

GENERAL SUMMARY: In every factory, manufacturing establishment, workshop or other place where 6 or more men and women are employed, separate toilets and washrooms for men and women must be provided.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *None.* According to the Arkansas Department of Labor, the state's authority to enforce these provisions is effectively preempted by the U.S. Occupational Safety and Health Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O INDUSTRIAL HEALTH SERVICE ACT

STATUTORY CITATION: Ark. Code §§ 11-5-201 - 11-5-208

GENERAL SUMMARY: The Industrial Health Service Act requires the state health department to investigate places of employment and study conditions which may contribute to ill health among the workforce, and authorizes the State Board of Health to adopt regulations pertaining to the control of industrial health hazards, including rules governing water supplies, toilet facilities, washing facilities and other matters affecting maintenance of workers' health. The Act implicitly applies to agricultural workplaces and to farmworkers.

PROVISIONS APPLICABLE TO AGRICULTURE: The State Board of Health has adopted no standards in agriculture under authority of the Industrial Health Service Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Arkansas Department of Health, Little Rock, Arkansas 72205. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

● DEPARTMENT OF WORKFORCE SERVICES LAW

STATUTORY CITATION: Ark. Code §§ 11-10-101 - 11-10-804

GENERAL SUMMARY: The Department of Workforce Services Law provides for the collection from employers of mandatory contributions to the state unemployment compensation fund and the payment of benefits to workers who are involuntarily unemployed. In general, employers who have one or more employees for 10 or more days within the current or preceding calendar year are required to pay UI taxes into the state UI fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments that (1) during any calendar quarter in the current or preceding calendar year paid at least \$20,000 in cash wages for agricultural labor, or (2) for some portion of a day in 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, are required to pay unemployment insurance taxes on behalf of their employees. Contributions are payable on the first \$12,000 in wages paid to each employee during the calendar year.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker is eligible for benefits if the worker (1) is registered for employment, is physically and mentally able to perform suitable work, and is available for work, (2) has, during the first four of the last five completed calendar quarters immediately preceding application for benefits, earned wages from insured employment in at least 2 such quarters, and (3) has earned total wages over the four-quarter base period equal to at least 35 times the worker's weekly benefit amount, defined in the next paragraph.

AMOUNT OF BENEFITS — The weekly benefit amount is a sum equal to ½/26 of the worker's total insured wages during the four quarters of the base period. No weekly benefit amount may be less than 12 percent of the state average weekly wage for insured employment for the preceding calendar year, nor may it exceed 66 ½/3 percent of that benchmark or \$451, whichever is less. The amount of benefits payable to an eligible worker during any week of total or partial unemployment is equal to the weekly benefit amount, minus the amount of any earnings for the week which exceed 40 percent of the weekly benefit amount.

SEASONAL WORKER PROVISIONS — Unemployment insurance claims filed by workers who have earnings from employment in administratively designated seasonal industries are subject to special rules which may adversely affect claimants' eligibility for benefits, as well as the amount and duration of such benefits.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Administration, Arkansas Department of Workforce Services, Little Rock, Arkansas 72203 (501-682-3200). This agency makes all determinations regarding employer liability for payment of UI taxes and is responsible for collecting state contributions from employers determined to be subject to the Department of Workforce Services Law. Likewise, the agency accepts and processes claims by unemployed workers seeking UI benefits and is responsible for the payment of such benefits. Applications for unemployment compensation may be filed in person at any Department of Workforce Services office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ark. Code §§ 11-9-101 - 11-9-1001

GENERAL SUMMARY: The Workers' Compensation Law requires most Arkansas employers with 3 or more regular employees to pay compensation for disability or death arising out of and in the course of employment, generally without regard to fault as a cause of the injury. Failure by an employer to provide required compensation to an injured employee, through a workers' compensation insurance policy or as a self-insurer, exposes the employer to unlimited liability in any suit filed by the employee, since the law strips the employer of most legal defenses otherwise available.

Benefits to which the worker or the worker's dependents may be entitled under the law include, among others, weekly cash payments to compensate for loss of wages, rehabilitation expenses, medical and hospital services, related supplies, and medicines.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Workers' Compensation Law **does not apply** to agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Arkansas Workers' Compensation Commission, Little Rock, Arkansas 72201. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

ARKANSAS PRIVATE EMPLOYMENT AGENCY ACT OF 1975

STATUTORY CITATION: Ark. Code §§ 11-11-201 – 11-11-229

GENERAL SUMMARY: The Arkansas Private Employment Agency Act regulates the operation of employment agencies and employment agents, which may include farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS: With few exceptions, no one in Arkansas may, for compensation or profit, engage in the business of furnishing job information or related services to workers seeking employment, or furnishing employers with information enabling them to secure workers, without first obtaining a license to do so from the state. Issuance of a license requires the applicant to (1) pay an annual license fee, (2) post a \$5,000 surety bond, (3) pass a written examination concerning employment agency operating practices, and (4) meet certain prescribed standards of conduct, character and financial responsibility. Among numerous other prohibited acts, employment agents may not publish or circulate fraudulent or misleading notices, or make false or misleading statements, regarding the availability of jobs or terms of employment. Also, an employment agency or agent may not knowingly send a worker to any job where a strike, lockout or other labor dispute is in effect.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). The Department is responsible for receiving and processing applications for private employment agency licenses, and for monitoring the activities of licensed employment agencies and agents. The Department may suspend, revoke, or refuse to renew the license of any licensee who has violated any provision of the Act. Likewise, operation of an employment agency or operating as an employment agent without a license is a misdemeanor, punishable by a fine, imprisonment, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

ARKANSAS PESTICIDE USE AND APPLICATION ACT

STATUTORY CITATION: Ark. Code §§ 20-20-201 – 20-20-207

RELATED REGULATIONS: State Plant Board Circular 14

GENERAL SUMMARY: The Arkansas Pesticide Use and Application Act regulates the distribution, use and application of pesticides, to prevent unreasonable adverse effects on people and the environment. The state administering agency is authorized to adopt regulations covering licensing of pesticide applicators, storage and disposal of pesticides and pesticide containers, reporting of pesticide accidents, and related issues.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR LICENSING — It is illegal for anyone to engage in the business of applying pesticides on someone else's property without having a valid commercial applicator's license issued by the state. Among other conditions, a commercial license may not be issued until the applicant passes an examination demonstrating knowledge of pesticides and pesticide application practices. Similarly, no agricultural producer may apply any restricted-use pesticide to his or her own crops without being licensed as a private applicator and being certified as competent to use the intended product safely.

AERIAL APPLICATOR LICENSING — It is unlawful to apply pesticides from an aircraft unless the pilot has a current valid license issued by the state. The license application must include the pilot's FAA commercial or private pilot's certificate number

INSURANCE AND BONDING — A commercial applicator's license may not be issued until the applicant furnishes evidence of liability insurance, bonding or other acceptable financial responsibility, in an amount not less than \$100,000.

INSPECTION AND LICENSING OF EQUIPMENT — Equipment used in the commercial application of pesticides must be identified in the applicator's license application. At the time the application is approved, the licensing agency must issue a decal for each such piece of equipment, and the decal must be attached to the equipment before the equipment may be used.

PESTICIDE STORAGE AND DISPOSAL — No one may store or dispose of any pesticide or pesticide container in a way that would cause injury to humans, crops, livestock or wildlife.

SPECIAL RULES FOR USE OF CERTAIN HERBICIDES — Individuals and firms that apply products containing 2,4-D, MCPA, Glyphosate, Dicamba or Quinclorac for hire (1) must follow special operating rules limiting when, where and the conditions under which the products may be applied, (2) are subject to special recordkeeping requirements, and (3) may be required to obtain additional insurance or other financial security. Private agricultural producers who use hormone-type herbicides are also subject to special permit, operating and recordkeeping requirements.

REPORTING OF PESTICIDE ACCIDENTS — A person claiming damages from a pesticide application must file a written statement with the state agency within 45 days after the damages occurred. Failure to file a report of the damage does not preclude taking legal action against any party believed responsible, but refusal by the claimant to allow the agency or the pesticide applicator involved to observe the damages automatically bars any claim against the applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Division, Arkansas State Plant Board, Little Rock, Arkansas 72205 (501-225-1598). The State Plant Board is responsible for licensing of pesticide applicators and for monitoring applicators' compliance with state pesticide regulations. The Board is authorized to investigate complaints of pesticide misuse and may, among other functions, hold hearings, subpoena witnesses, and enter public or private property to inspect fields, equipment, storage areas and records. Legal action against violators may be pursued in court either by the Plant Board itself or by local prosecuting attorneys. The Act prescribes both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O PUBLIC HEALTH AND WELFARE LAWS (HAND HARVESTING BY CHILDREN)

STATUTORY CITATION: Ark. Code § 20-20-303

GENERAL SUMMARY: Chapter 20 of Arkansas' public health and welfare statutes authorizes the state health department to establish a list of approved pesticides and other agricultural chemicals deemed safe for the occupational exposure of children 12 and 13 years of age who are employed in hand harvesting of short-season crops. The department may also establish time periods after which it is deemed safe for 12- and 13-year-old hand-harvest workers to re-enter the fields after those chemical products are applied.

SPECIFIC TERMS AND CONDITIONS: Under this authority, the Arkansas Department of Health has adopted **no regulation** listing any pesticide products found safe for 12- and 13-year-old hand harvesters, nor established safe re-entry periods applicable to such workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Arkansas Department of Health, Little Rock, Arkansas 72205.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). This agency is responsible for issuing youth employment certificates in Arkansas, and for enforcing other provisions in the state's child labor laws.

WAGES AND HOURS

MINIMUM WAGE ACT OF THE STATE OF ARKANSAS

STATUTORY CITATION: Ark. Code §§ 11-4-201 - 11-4-220

RELATED REGULATIONS: Ark. Code R. 010.14-001 - 010.14-113

GENERAL SUMMARY: The state minimum wage law generally requires employers with 4 or more employees in any work week to pay no less than \$8.50 an hour for every hour of work that week, effective January 1, 2017.

Among other exceptions, an employer who is otherwise obligated to pay the state minimum wage may apply to the state labor department for a certificate authorizing the employer to pay no less than 85 percent of the minimum wage to full-time students, for not more than 20 hours a week when school is in session and not more than 40 hours a week when school is not in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law applies only to large agricultural establishments, excluding from coverage the following categories of employees:

- (1) Workers employed by an agricultural establishment which did not use more than 500 worker-days of farm labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, commute daily from their permanent residence to the farm where they work, and have been employed in agriculture less than 13 weeks during the preceding calendar year.
- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as employees over the age of 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). Employees who believe that they have not received the wages they are entitled to under the state minimum wage law may file a claim with the Department, which is authorized to investigate and take administrative or court action against the employer to collect the unpaid wages if a violation is found to have occurred. The Department also has authority to assess civil money penalties of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the Department of Labor, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, court costs and attorney's fees, and the worker may be entitled to an additional amount as liquidated damages.

■ MINIMUM WAGE ACT OF THE STATE OF ARKANSAS (HOURS AND OVERTIME)

STATUTORY CITATION: Ark. Code §§ 11-4-201 – 11-4-220

RELATED REGULATIONS: Ark. Code R. 010.14-001 - 010.14-113

GENERAL SUMMARY: In addition to establishing an hourly wage floor, the Minimum Wage Act bars most employers of 4 or more workers from employing any such worker for more than 40 hours a week unless the worker receives overtime compensation at a rate not less than 11/2 times the regular rate of pay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law — and thus the overtime pay protection — applies only to large agricultural establishments, excluding from coverage the following categories of employees:

- (1) Workers employed by an agricultural establishment which did not use more than 500 worker-days of farm labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, commute daily from their permanent residence to the farm where they work, and have been employed in agriculture less than 13 weeks during the preceding calendar year.
- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as employees over the age of 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). Employees who believe that they have not received the wages they are entitled to under the state minimum wage law may file a claim with the Department, which is authorized to investigate and take administrative or court action against the employer to collect the unpaid wages if a violation is found to have occurred. The Department also has authority to assess civil money penalties of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the Department of Labor, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, court costs and attorney's fees, and the worker may be entitled to an additional amount as liquidated damages.

WAGE PAYMENT LAWS

STATUTORY CITATION: Ark. Code §§ 11-4-401 - 11-4-405 and §§ 11-4-301 - 11-4-306

RELATED REGULATIONS: Ark. Code R. 010.14-107

GENERAL SUMMARY: The Arkansas employment laws contain miscellaneous standards governing the payment of wages by employers in the state, generally including farm operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

SEMI-MONTHLY PAYMENT OF WAGES — Corporations doing business in the state and employing laborers for the transaction of their business must pay their laborers' wages semi-monthly.

MEDIUM OF PAY — It is unlawful for any employer to pay wages in any medium other than lawful money, check or direct deposit into the employee's account.

PAYMENT OF WAGES ON DISCHARGE — Whenever an employer fires or otherwise terminates an employee, with or without cause, the unpaid balance of the worker's earnings becomes due immediately. If the worker has not received final wages within 7 days, as a penalty for non-payment by the employer, the worker's wages continue to accrue from the date of discharge, at the same rate until paid. Such additional wages may not continue for more than 60 days, unless an action to recover the unpaid wages and penalty is commenced within that time.

PAYMENT BY SALE OF GOODS OR SUPPLIES — It is illegal for an employer to coerce or attempt to coerce an employee to purchase goods or supplies as payment of wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). Any disagreement between a worker and employer regarding earnings or the payment of wages may be referred to the Department for investigation and resolution, provided the amount in question does not exceed \$2,000. If a worker's claim is determined valid and the worker lacks financial ability to pursue court action to recover wages from an employer who refuses to accept the Department's findings, the agency is authorized to take legal action against the employer on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

ARKANSAS INCOME TAX WITHHOLDING ACT OF 1965

STATUTORY CITATION: Ark. Code §§ 26-51-901 - 26-51-919

GENERAL SUMMARY: The Arkansas Income Tax Withholding Act requires most employers in the state to deduct and withhold state income taxes from their employees' wages, and to forward such taxes to the state for credit against the employees' tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers who pay wages for agricultural labor to 4 or more employees during the year are required to withhold state income tax from their workers' wages, maintain related records, and provide the workers with an annual statement of wages paid and taxes withheld on or before January 31 following the end of the tax year.

A farm employer who pays farm wages to 3 employees or fewer has the option to collect, account for and forward the taxes to the state if the employer so chooses. Employers who opt to withhold state income tax, however, are obligated to provide each employee with the required annual statement of wages and taxes.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Whether an employer withholds taxes from wages or not, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Income Tax Administration, Arkansas Department of Finance and Administration, Little Rock, Arkansas 72201 (501-682-1130).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

		Ca	ilifornia	
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California

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CHILD LABOR

WAGE, HOUR, AND CHILD LABOR LAWS

STATUTORY CITATION: Cal. Lab. Code §§ 1171-1206 and §§ 1285-1399

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11140 and 11701–11707

GENERAL SUMMARY: The state child labor laws seek to protect the well-being of minors by restricting the kinds of occupations and establishments at which they may be employed, and by limiting the hours during which such employment may occur. In general, these provisions make no distinction between agricultural and non-agricultural employment.

PROVISIONS APPLICABLE TO AGRICULTURE

PROHIBITED OCCUPATIONS —

Minors Under Age 12 — Children under the age of 12 may not be employed or permitted to work, or accompany or be permitted to accompany an employed parent or guardian, in any agricultural danger zone, defined to include areas in or about moving equipment, in or about unprotected chemicals, and in or about any unprotected water hazard.

Minors Under Age 16 — Children under 16 years of age may not be employed or permitted to work in any occupation that could endanger the worker's life, health or morals. Among the farm-related employment activities currently barred by the state enforcement agency for workers under 16 is work in close proximity to moving machinery, operating or servicing tractors and other heavy equipment, working from ladders and other structures from a height over 20 feet, working inside certain fruit and grain storage enclosures, and handling or applying certain pesticides and other agricultural chemicals.

Minors Age 16 and 17 — There are no agriculturally related occupations closed to persons 16 and 17 years of age.

PERMITS AND HOURS — Except for high-school graduates and those with an equivalent certificate, all children under 18 years of age must have a work permit, issued by the local school district, to be lawfully employed. A work permit may be issued to children age 12 and over for agricultural employment under the following conditions:

Minors Age 12 and 13 — Children 12 and 13 years old are permitted to work only on non-school days. At no time may such minors work more than 8 hours a day or 40 hours a week. Work is permitted only between the hours of 7:00 a.m. and 7:00 p.m. (until 9:00 p.m. from June 1 through Labor Day).

Minors Age 14 and 15 — While school is in session, children 14 and 15 years of age who have completed 7th grade may work up to 3 hours on a school day (outside school hours only), and up to 8 hours on a non-school day, for a maximum of 18 hours per week. When school is not in session, 14- and 15-year-olds may work up to 8 hours per day and 40 hours per week. Such children may work only between the hours of 7:00 a.m. and 7:00 p.m. (until 9:00 p.m. from June 1 through Labor Day).

Minors Age 16 and 17 — When school is in session, 16- and 17-year-olds who have completed 7th grade may work up to 4 hours a day before or after school, and up to 8 hours a day on non-school days and days preceding a non-school day, for a maximum of 48 hours per week. When school is not in session, 16- and 17-year-olds may work up to 8 hours a day and 48 hours a week. Work is limited to the hours of 5:00 a.m. to 10:00 p.m. (until 12:30 a.m. on any evening preceding a non-school day).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division is authorized to investigate alleged or suspected violations of the child labor laws, and may issue a citation to any person determined to have violated any such law or rule related to the employment of minors. A citation can lead to a civil money penalty, and violators are also subject to criminal prosecution. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — City, county and school district attendance supervisors may enter any workplace within their jurisdiction for the purpose of inspecting work permits of employed minors and to investigate child labor irregularities. Attendance officers are required to report suspected or confirmed violations to the Department of Industrial Relations within 48 hours.

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Cal. Educ. Code §§ 48200-48361

GENERAL SUMMARY: The Compulsory Education Law provides that every person between the ages of 6 and 18 not otherwise exempted must attend a public school (or a private school which meets state standards) for the full time designated as the length of the school day by the governing board of the school district in which the child's parent or legal guardian resides. Among other fairly narrow exceptions, if a minor withdraws from school at age 16, he or she must be enrolled in a continuation education program or be exempted from attendance by passing a high-school proficiency exam. Every parent, guardian or other person having control or charge of a child of compulsory school age is responsible for assuring the child's school attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance requirement applies to farmworkers and their children to the same extent as to non-agricultural workers and families.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local school districts and local peace officers. School attendance supervisors, school administrators and police officers are authorized to take into temporary custody, during school hours, any child subject to the Compulsory Education Law who is found away from home and absent from school without valid excuse. Parents of habitually truant children are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The compulsory education law also authorizes the establishment of School Attendance Review Boards at the county and local levels, to enhance the enforcement of compulsory education and divert students with school attendance or behavior problems from the juvenile justice system until all available resources have been exhausted. SARBs have authority, when necessary, to refer students and their parents or guardians to court.

WORKERS' COMPENSATION ACT (ILLEGAL EMPLOYMENT OF MINORS)

STATUTORY CITATION: Cal. Lab. Code § 4557

GENERAL SUMMARY: With respect to the on-the-job injury of an employee under 16 years of age who is illegally employed at the time of injury, the employer is generally liable for 150 percent of the total compensation otherwise recoverable under the Workers' Compensation Act, unless the employer relied in good faith on reasonable evidence presented by the worker indicating that the worker was over the age of 15 at the time of hiring.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers are subject to the Act to the same extent as their counterparts in most non-agricultural industries. Hence, minors who are employed in farmwork in violation of the child labor laws at the time of an occupational injury are entitled to the additional compensation authorized by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100). This agency is responsible for receiving and processing workers' compensation claims, adjudicating workers' compensation appeals, and overseeing the payment of workers' compensation benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

STATUTORY CITATION: Cal. Gov. Code §§ 12900-12996

GENERAL SUMMARY: The California Fair Employment and Housing Act is intended to safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The Act, among other provisions, defines certain unlawful employment practices and prescribes remedies which will help eliminate discrimination by subject employers, implicitly including farm operators and other agricultural entities.

SPECIFIC TERMS AND CONDITIONS: With few exceptions, every employer in the state regularly employing 5 or more workers is subject to the Act. It is an unlawful employment practice, unless based on a bona fide occupational qualification, for such an employer, because of any individual's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, or military and veteran status, to refuse to hire or employ the individual, or to discriminate against the individual with respect to compensation or other terms and conditions of employment. Similarly, except under specified and very limited circumstances, it is unlawful for a subject employer to refuse to hire, or to fire or demote, any individual over the age of 40 on the basis of age.

The Act establishes comparable proscriptions against employment discrimination by employment agencies and labor organizations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — California Department of Fair Employment and Housing, Elk Grove, California 95758 (916-478-7251). In exercise of its enforcement responsibility under the Act, the Department is authorized to receive and investigate complaints of employment discrimination, to issue subpoenas, and to interrogate witnesses. Any person aggrieved by alleged unlawful discrimination on the job may file a written complaint with the Department, which is required to try promptly to eliminate any confirmed unlawful employment practice by conference, conciliation and persuasion. If this process fails to effectuate compliance, the Department may file a civil action in court. In general, a complaint under this law must be filed within one year of the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Fair Employment and Housing Council, Department of Fair Employment and Housing, Elk Grove, California 95758 (916-478-7248). The Council is responsible for issuing regulations that interpret and apply the provisions of the Fair Employment and Housing Act, and for conducting hearings and issuing rulings on formal charges brought by the Department of Fair Employment and Housing.

PRIVATE CIVIL ACTION — If an accusation is not issued within 150 days after filing of a complaint, or the Department determines that no accusation will be issued, the complainant may bring civil action in superior court against the employer or other entity alleged to have violated the Act.

WAGE AND HOUR LAWS (EQUAL PAY PROVISION)

STATUTORY CITATION: Cal. Lab. Code § 1197.5

GENERAL SUMMARY: It is unlawful for any employer in California to pay any individual at a wage rate less than the rate paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort and responsibility, and which are performed under similar working conditions. This does not, however, preclude the payment of wage differentials based on seniority, merit, quantity or quality of production, or any other bona fide factor other than gender.

Employers are required to maintain records of wages, wage rates, job classifications and other terms and conditions of employment. Any employer who violates the equal pay provision is liable to the affected worker in the amount of the wages (plus interest) of which the worker was deprived by reason of the violation, and an additional, equal amount as liquidated damages.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to agricultural labor to the same extent as to non-agricultural labor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division may investigate any complaint filed by an employee under this provision and is empowered to prosecute civil suits against violating employers. Violation of the equal pay provision by an employer is a misdemeanor, punishable by a fine, jail term or both. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — To enforce the rights described above, an employee may also bring civil action against the employer directly, using a private attorney or a public legal service provider. Such action must commence within 2 years after the alleged violation occurred (within 3 years if the violation is found to be willful).

HEALTH AND SAFETY

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 3436-3458.1

GENERAL SUMMARY: Under the California Occupational Safety and Health Act, employers in the state must furnish employment and a place of employment which are safe and healthful for their employees, and employers must provide and use appropriate safety devices and observe preventive work practices. Employers and workers are required to comply with all occupational safety and health standards and other regulations authorized by the Act which are applicable to their respective industries and places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. California's agricultural safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

■ FOOD CROP SANITATION LAW

STATUTORY CITATION: Cal. Health & Safety Code §§ 113310-113360

RELATED REGULATIONS: Cal. Code Regs. Title 17, §§ 8000-8013

GENERAL SUMMARY: To maintain the sanitary conditions under which California's food crops are grown and harvested, and to protect the health and dignity of the workers employed in the growing and harvesting of such crops, agricultural employers are required to provide toilet and handwashing facilities in any field activity which involves a food crop and where 5 or more employees are working as a crew, unit or group for a period of 2 or more hours.

SPECIFIC TERMS AND CONDITIONS

TOILET FACILITIES — Each toilet unit (1) must provide at least 8 square feet, with a minimum width of 2 ½ feet for each seat, and (2) must be ventilated and provided with self-closing doors lockable from the inside. Units housing toilet and handwashing facilities must be rigidly constructed, with inside surfaces made of non-absorbent, readily cleanable material. Toilet paper must be furnished at all such facilities.

HANDWASHING FACILITIES — Handwashing facilities must enable workers to wash their hands in clean water, using soap or other suitable cleansing agent, with a sign posted indicating that the water is for handwashing only. The water tank must have a minimum capacity of 15 gallons.

LOCATION OF FACILITIES — In general, toilet and handwashing equipment must be stationed within a five-minute walk of the workplace. Whenever roads, terrain or other physical conditions prevent compliance with this distance limitation, such facilities should be located at the point of vehicular access closest to the workers.

SPECIAL NOTES OR ADVISORIES

SUSPENSION OF EMPLOYMENT SERVICES — Each agency enforcing the food crop sanitation law must report any violation of which it has knowledge to all offices of the Employment Development Department in the county where the violation occurs. The Employment Development Department is prohibited from referring workers to any employer or food crop operation identified in such a report until the agency reporting the violation certifies that the violation has been corrected.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced primarily by local health officers, who may be assisted by county agricultural commissioners. Violation of the food crop sanitation law is a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — California Department of Industrial Relations, Oakland, California 94612 (510-286-7000); California Department of Public Health, Sacramento, California 95814 (916-558-1784); California Department of Food and Agriculture, Sacramento, California 95814 (916-900-5030).

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (FIELD SANITATION)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, § 3457

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the administering agency has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. California's field sanitation standards are similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but are substantially more detailed and may be applied to any hand-labor agricultural operation in the state, without respect to the number of workers employed.

POTABLE DRINKING WATER — Farm employers must provide a sufficient supply of fresh, cool, potable drinking water to their employees performing hand-labor operations in the field. The water must be readily accessible, and workers must be allowed access to the water at all times. Water must be dispensed in single-use drinking cups or from fountains.

TOILET FACILITIES — At locations where there are 5 or more workers, employers must provide separate toilet facilities for each sex, at a ratio of one toilet for every 20 workers or fraction thereof; where there are fewer than 5 workers, separate toilets for each sex are not required. All toilet units must be ventilated, have self-closing doors that can be locked from the inside, be screened to prevent entry of flies, be constructed to ensure privacy, and meet related sanitation requirements. Toilet paper must be provided in a suitable holder in each toilet unit.

HANDWASHING FACILITIES — For every 20 workers or fraction thereof, employers must provide one handwashing facility, equipped with an adequate supply of potable water, soap or other suitable cleansing agent, and single-use towels. A sign must be posted to indicate that the water is for handwashing only.

LOCATION OF FACILITIES — In general, toilet and handwashing equipment must be stationed within a 5-minute or 1/4-mile walk of the workplace, whichever is shorter. Whenever roads, terrain or other physical conditions prevent compliance with this distance limitation, such facilities should be located at the point of vehicular access closest to the workers. Toilet and handwashing facilities must be in close proximity to each other.

EXCEPTION TO LOCATION REQUIREMENT — Instead of providing the facilities on site, an employer may provide transportation to toilet and handwashing facilities if (1) the workers perform field work for a period of less than 2 hours, including time to and from work, and (2) there are fewer than 5 workers engaged in hand-labor operations at the site on that day.

RESPONSIBILITY FOR MAINTENANCE — The employer is responsible for servicing and maintaining these facilities. This responsibility includes, among others, (1) cleaning and refilling the drinking water containers, (2) keeping the toilet facilities clean, sanitary and operational, (3) providing toilet paper, and (4) properly disposing of the contents of any chemical toilets used.

REASONABLE USE — The employer must notify each worker of the location of the sanitation and water facilities, and must allow each worker reasonable opportunities during the workday to use them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAND-HELD TOOLS)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, § 3456

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

SHORT-HANDLED HOES — The use of a hoe or any other hand tool less than 4 feet in length is prohibited in weeding, thinning and similar agricultural operations when the hoe or other tool is used in a stooped, kneeling or squatting position. Likewise, a hand tool 4 feet long or longer used for these same operations may not be used as a short-handled hand tool in a stooped, kneeling or squatting position.

HAND WEEDING — Hand weeding, hand thinning, and hand hot-capping in a stooped, kneeling or squatting position is not permitted in most agricultural operations, unless there is no readily available, reasonable alternative means of performing the work; the employer bears the burden of justifying use of this exception. Likewise, occasional or intermittent hand weeding, hand thinning or hand hot-capping in a stooped, squatting or kneeling position is permissible, provided the worker is devoting no more than 20 percent of his or her weekly work time to hand operations.

HAND WEEDING REQUIREMENTS — In general, employers who require or allow workers to hand weed, hand thin, or hand hot-cap must provide them with an additional 5 minutes of rest time in the middle of each work period. The authorized rest period is figured at the rate of 15 minutes for every 4 hours of work or fraction thereof, which is counted as compensable work time and may not be deducted from wages. Workers engaged in hand weeding, hand thinning, or hand hot-capping must be provided with gloves and knee pads, as well as training to help them avoid related injuries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

HOUSING

EMPLOYEE HOUSING ACT

STATUTORY CITATION: Cal. Health & Safety Code §§ 17000-17062.5

RELATED REGULATIONS: Cal. Code Regs. Title 25, §§ 600-940

GENERAL SUMMARY: The Employee Housing Act requires the licensing and inspection of labor camps and other housing facilities provided to 5 or more workers by their employer, and certain rural housing accommodations used by 5 or more agricultural workers as a temporary or seasonal residence. The Act also establishes formal procedures for filing and resolving complaints related to employee housing facilities and defines certain tenants' rights regarding retaliation and eviction.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may operate a labor camp without a valid permit issued by the state. A permit may be issued for from one to 5 years, depending on the type of facility, and the issuance of a permit requires the payment of a fee.

INSPECTIONS — At least once each year, state or local enforcement officials must inspect all registered labor camps and any attached equipment and accommodations, to assure compliance with detailed health and safety standards, key elements of which are summarized as follows.

Site and Structures — The site of each labor camp must be well drained. No housing structure may be located any closer than 75 feet from any livestock or poultry holding area. All structures must be maintained in a safe and sanitary condition, and must provide camp occupants with adequate shelter against the elements.

Sleeping Areas — Sleeping areas for more than one person must afford no less than 50 square feet of space for each occupant, with a minimum average ceiling height of 7 feet. Suitable and separate beds are required for all residents, and the operator must furnish a clean, sanitary mattress and other bedding to any occupant who requests it; residents may be charged a reasonable fee for bedding.

Kitchens and Mess Halls — Community kitchens and mess halls must be equipped with suitable refrigeration, dishware, utensils and shelf space. Covered trash containers must be provided near each unit and must be emptied regularly.

Fire Equipment — In every community kitchen, dining area and dormitory, there must be prescribed fire extinguishing equipment, maintained in good operating order.

Plumbing Systems — Pipes, drains and plumbing fixtures must be kept clean and in good working order. No less than one toilet and one bathing facility must be provided for every 10 camp occupants (or one for every 15 in camps constructed or remodeled before January 22, 1973). If toilets other than water-flush units are utilized, they may not be any closer than 50 feet or more than 200 feet from sleeping quarters. Underground sewage disposal systems must be insect- and rodent-proof.

Water — Potable water which meets prescribed sanitation standards must be available for all employees who are furnished housing. Water storage and distribution systems must be kept clean and sanitary.

Heating — In temporary and seasonal labor camps, heating equipment is not required (except in shower rooms), unless such equipment is necessary to maintain a minimum average temperature of 70 degrees F. Fuel storage and distribution systems such as gas tanks, gas pipes and outlets must be constructed and maintained in safe condition. All fuel-burning heaters require proper venting. Cook stoves and gas hotplates may not be used as room heaters.

Electrical Systems — Electrical fixtures, wiring and safeguards must be maintained in good working order. The electrical system must be protected with properly rated fuses or circuit breakers. There must be light fixtures and electrical outlets in specified minimum numbers in all habitable rooms and in bath and toilet rooms.

COMPLAINTS — Any person residing in housing subject to the Act may file a complaint with the state or local enforcement agency, provided the complainant also delivers a copy of the complaint to the employer at the same time. The state enforcement agency is required to keep a file of all complaints and other significant information regarding labor camp maintenance and operation, and to make such information available to state and local law enforcement agencies.

TENANTS' RIGHTS — No one who operates a labor camp consisting only of permanent units may increase rent, decrease services, evict, threaten not to renew tenancy, or otherwise retaliate against a tenant because of a complaint by the tenant concerning the housing facility or the exercise of any other right under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employee Housing Program, Codes and Standards Division, California Department of Housing and Community Development, Sacramento, California 95833 (916-445-9471). The Department is responsible for licensing of labor camps and other employee housing facilities, conducting the annual housing inspections required under the Act, and processing complaints by aggrieved tenants.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any city, county or city-county unit may assume responsibility for enforcement of the Act and related regulations, by presenting written notice to the Department. Under certain conditions, the Department may transfer enforcement responsibility to the local unit or units of government. In any case, the Department retains the right to enforce the Act and its associated standards at the local level if the local agency has failed to discharge its duties.

PRIVATE CIVIL ACTION — If the state or local enforcement agency does not commence civil enforcement action in response to a complaint regarding an employee housing facility within 21 days after receiving the complaint, the complainant may bring suit against the respondent directly, utilizing a private attorney or public legal service provider.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. California's temporary labor camp standards are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

INSURANCE AND COMPENSATION

CALIFORNIA UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Cal. Unemp. Ins. Code §§ 1–2129

GENERAL SUMMARY: The California unemployment insurance law authorizes the collection of unemployment insurance contributions from most California employers, and the payment of unemployment compensation to workers who are involuntarily out of work.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers and agricultural employers are covered by the unemployment insurance law to the same extent as most non-agricultural workers and employers.

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments that (1) for some portion of a day in the current or preceding calendar year have one or more employees, and (2) pay more than \$100 in wages during any calendar quarter, are required to pay state UI taxes on behalf of their workers. The amount of the tax is computed on the first \$7,000 of each employee's earnings in a calendar year, at a rate determined annually by the state administering agency in accordance with guidelines specified in the statute.

ELIGIBILITY FOR BENEFITS — A farmworker or any other jobless individual is generally eligible for unemployment compensation benefits if the worker (1) is registered for work, able to work, available for work, and actively seeking employment, and (2) has, during the one quarter of his or her applicable four-quarter base period when wages were highest, earned at least \$1,300 from UI-covered employment, or earned at least \$900 in the peak quarter and at least 1.25 times the amount of peak-quarter wages throughout the entire base period.

AMOUNT OF BENEFITS — A worker's weekly benefit amount depends on the amount of wages the worker received for covered employment during the one calendar quarter in the four-quarter base period in which earnings were highest. The weekly benefit amount may range from \$40 to \$450 per week. The amount of UI benefits payable in a given week is equal to the weekly benefit amount, minus the lesser of (1) the amount of any earnings that week in excess of \$25, or (2) 75 percent of the week's earnings.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Development Department, Sacramento, California 95814 (800-300-5616). The Department is responsible for determining employers' liability for the payment of UI taxes and for the collection of such contributions from liable employers. This agency also receives and processes claims for unemployment insurance benefits. Applications for benefits may be filed online (https://eapply4ui.edd.ca.gov/) or by phone (800-300-5616 in English; 800-326-8937 in Spanish).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — California Unemployment Insurance Appeals Board, Sacramento, California 95833 (916-263-6783).

WORKERS' COMPENSATION ACT

STATUTORY CITATION: Cal. Lab. Code §§ 3200–6208

GENERAL SUMMARY: The Workers' Compensation Act makes most employers in the state liable for payment of compensation to their employees who are injured on the job, without regard to the question of negligence. Compensation to an injured worker (or to the dependents of a worker who dies from work-related injuries) includes medical and hospital treatment, weekly disability payments in lieu of lost wages, and death benefits.

In general, employers must meet their liability for compensation either by obtaining workers' compensation insurance which meets minimum prescribed coverage criteria, or by securing a certificate from the state consenting to self-insurance. If an employer fails to secure payment of compensation through one of these two options, an injured employee or the employee's dependents may bring suit against the employer for damages. In any such action, it is presumed that the injury was due to the negligence of the employer, and the burden of proof is on the employer to rebut this presumption. Moreover, the Act expressly bars the employer from claiming as a defense to the suit that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risks that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers are subject to the Workers' Compensation Act, and farmworkers are entitled to its protection, to the same extent as their counterparts in most non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100). This agency is responsible for receiving and processing workers' compensation claims, adjudicating workers' compensation appeals, and overseeing the payment of workers' compensation benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CALIFORNIA DISABILITY COMPENSATION LAW

STATUTORY CITATION: Cal. Unemp. Ins. Code §§ 2601-3306

GENERAL SUMMARY: The stated purpose of the California Disability Compensation Law is to compensate, in part, for the wage loss sustained by individuals unemployed because of their own sickness or injury, the sickness or injury of a family member, or the birth, adoption or foster care placement of a new child. The law provides for the payment of weekly cash benefits financed by the collection of a payroll tax on the earnings of each covered employee.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers are covered by the state disability insurance program to the same extent as most non-agricultural workers.

WORKER CONTRIBUTIONS — While employed by any employer who pays more than \$100 in wages during any calendar quarter in the current or preceding calendar year, farmworkers are subject to disability unemployment insurance taxes, which must be withheld from their earnings by the employer and forwarded to the state. The tax rate and the dollar amount of each worker's wages against which the rate is applied are determined annually by the administering agency; the rate for calendar year 2017 is 0.9 percent, and the wage limit is \$110,902.

ELIGIBILITY FOR BENEFITS — In general, a worker who is unemployed due to physical or mental illness or injury is eligible for weekly benefits if the worker (1) has been unemployed and disabled for a waiting period of 7 consecutive days, (2) has submitted to any required examination to determine disability, (3) has, not later than 49 days after the first compensable day of unemployment and disability, filed a first claim and accompanying physician's certification, and (4) has earned at least \$300 in wages during the appropriate base period.

AMOUNT OF BENEFITS — The amount of a worker's weekly benefits depends on the amount of wages received in the one quarter of the four-quarter base period in which earnings were highest. Benefits may range from \$50 to \$1,173 per week, but the worker is not entitled to disability benefits for any day of unemployment and disability for which the worker has received or is entitled to receive unemployment compensation, workers' compensation or similar cash benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Development Department, Sacramento, California 95814 (800-480-3287). This agency is responsible for collection of disability insurance contributions withheld from workers' pay, for determining eligibility for disability benefits, and for administering benefit payments. Applications for benefits may be filed online using SDI Online (http://www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 800-480-3287 in English, or 866-658-8846 in Spanish).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CALIFORNIA DISABILITY COMPENSATION LAW (PAID FAMILY LEAVE)

STATUTORY CITATION: Cal. Unemp. Ins. Code §§ 3300-3306

GENERAL SUMMARY: The stated purpose of the California Disability Compensation Law is to compensate, in part, for the wage loss sustained by individuals unemployed because of the sickness or injury of a family member, or the birth, adoption or foster care placement of a new child. For unemployment of this nature, the law provides for the payment of weekly cash benefits, financed by the collection of a payroll tax on the earnings of each covered employee.

Agricultural workers are covered by the Paid Family Leave provision to the same extent as most non-agricultural workers.

SPECIFIC TERMS AND CONDITIONS: Family temporary disability insurance provides up to 6 weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, parent-in-law, grandparent, grandchild, sibling, or domestic partner, or to bond with a new child within one year of the birth or placement of the child in connection with foster care or adoption. The program is financed by the California disability insurance taxes withheld from most workers' wages, as described in the previous entry.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Development Department, Sacramento, California 95814 (877-238-4373). This agency is responsible for collection of disability insurance contributions withheld from workers' pay, for determining eligibility for disability benefits, and for administering benefit payments. Applications for Paid Family Leave benefits may be filed online (http://www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 877-238-4373 in English, or 877-379-3819 in Spanish). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

FARM LABOR CONTRACTOR LAW

STATUTORY CITATION: Cal. Lab. Code §§ 1682–1699

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 13660-13667.4

GENERAL SUMMARY: The state Labor Code regulates the activities and conduct of farm labor contractors in California, by imposing licensing requirements on individuals who, for a fee, (1) employ workers to render services in connection with the production of farm products to, for or under the direction of a third party, or (2) recruit, solicit, supply or hire workers on behalf of a farm employer and provide the workers with allied services such as transportation, housing, workplace supervision or disbursement of pay.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may act as a farm labor contractor until a license permitting such activity has been issued to the individual by the state, and unless such license is fully in effect and in the contractor's possession. Prerequisites for issuance of a license include (1) the filing of an application, (2) an investigation of the applicant by the state administering agency, (3) the posting of a surety bond of up to \$75,000 and payment of license and filing fees by the applicant, (4) successful completion of an examination covering laws and regulations related to farm labor contractors and demonstrating the contractor's knowledge of safe work practices related to pesticide use, (5) registration of the applicant and the applicant's employees under the federal Migrant and Seasonal Agricultural Worker Protection Act, if required, and (6) completion by the applicant's employees of training related to the recognition, prevention and reporting of sexual harassment in the workplace.

DUTIES OF LICENSEES — Licensees must (1) carry the contractor's license with them at all times and show it to all persons with whom they intend to deal in their capacity as farm labor contractors, (2) promptly file a change of address with the local post office serving the address of record on the face of the license after each permanent move, (3) pay or distribute money or other things of value to the individuals entitled thereto promptly when due, (4) comply fully with all legal and valid agreements and contracts entered into with any third party in connection with operation as a farm labor contractor, (5) have available for inspection, by the workers and the growers with whom they contract, a written statement in English and Spanish showing the rate of compensation received from the growers and the corresponding compensation being paid to the workers, (6) obtain appropriate liability insurance to cover potential damage to persons or property arising from the contractor's use or ownership of any vehicle for transporting workers, (7) display prominently, at the worksite and on all vehicles used to transport workers, the rate of compensation being paid to the workers, (8) register with the agricultural commissioner of each county in which the contractor has contracted with a grower, and (9) provide their supervisory employees with certain required information and training regarding employment-related laws and regulations.

PROHIBITED ACTS — No applicant for a farm labor contractor's license may make any misrepresentation or false statement in the application, and no licensee may make any false, fraudulent or misleading representation, or publish or circulate any false or misleading information concerning the availability of employment or the terms and conditions of any employment. Licensees are forbidden from sending or transporting any worker to any place where the contractor knows a strike or lockout exists, without notifying the worker that such a condition exists.

TRANSPORTATION — All vehicles used by a licensee to transport workers must display at their entrance the contractor's name and contractor license number. Contractors and their employees who operate a bus or truck in the transportation of workers must be licensed in accordance with state laws applicable to farm labor vehicles (see entries, California—Transportation—Farmworker Transportation Safety), and must be registered with the state labor commissioner.

STATEMENT OF WAGE DEDUCTIONS — Every licensee must, at the time of each payment of wages (which must be not less often than once a week) provide each worker with an itemized written statement showing each and every deduction made from the worker's earnings. The statement may be a detachable part of the check or draft used to pay wages, or a separate document.

COVERAGE EXCEPTIONS — The state farm labor contractor law does not apply to anyone who performs recruitment, supervision and other such services not as an independent contractor, but only within the scope of the person's employment by the agricultural establishment on whose behalf those particular activities are being performed. Likewise, for licensing and compliance purposes, the term "farm labor contractor" does not include a commercial packinghouse engaged in both the harvesting and packing of citrus fruit or soft fruit for a client or customer.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division is in charge of processing farm labor contractor license applications, issuing such licenses, and monitoring compliance with these provisions by licensees. Unlicensed individuals who operate as farm labor contractors, as well as licensees who violate the requirements imposed on them by these provisions, are subject to civil action and criminal prosecution. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, a list of which may be found online at http://www.dir.ca.gov/dlse/DistrictOffices.htm, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by an alleged violation of this law may take legal action in civil court to recover lost wages, damages (in some cases), attorney's fees and court costs, using a private attorney or public legal service provider.

LABOR RELATIONS AND COLLECTIVE BARGAINING

AGRICULTURAL LABOR RELATIONS ACT OF 1975

STATUTORY CITATION: Cal. Lab. Code §§ 1140–1166.3

GENERAL SUMMARY: Declaring it a matter of public policy to encourage and protect the right of agricultural employees to organize freely and to negotiate the terms and conditions of their employment without interference, restraint or coercion, the Agricultural Labor Relations Act establishes a state-administered mechanism to assure the exercise of collective bargaining rights by the state's farmworkers. The Act enumerates the rights of agricultural employees, defines various unfair labor practices, outlines the process under which representation elections may be petitioned and under which such elections must be conducted, and prescribes measures for preventing unfair labor practices and enforcing compliance.

SPECIFIC TERMS AND CONDITIONS

WORKERS' RIGHTS — Agricultural employees have the right to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Workers also have the right to refrain from any or all such activities, except to the extent that this right may be affected by a valid agreement requiring membership in a labor organization as a condition of continued employment.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other prohibited acts, it is unlawful for an agricultural employer (1) to interfere with or coerce agricultural employees in the exercise of the rights listed above, (2) to dominate or interfere with the formation or operation of a labor organization, or contribute support to it, (3) to encourage or discourage membership in any labor organization by discrimination in hiring or setting terms and conditions of employment, (4) to fire or otherwise discriminate against a worker in retaliation for the worker's having filed charges or given testimony under the Act, (5) to refuse to negotiate in good faith with a labor organization that has been certified as the exclusive representative of the workers for collective bargaining purposes, or (6) to recognize, bargain with or sign a collective bargaining agreement with any labor organization not certified as the representative of the workers.

UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS — Among other prohibited acts, it is unlawful for a labor organization or its agents (1) to interfere with agricultural employees in the exercise of the rights outlined above, or to interfere with employers in the selection of their collective bargaining representatives, (2) to engage in or promote discrimination against employees for reasons related to their membership or non-membership in a labor organization, (3) to refuse to bargain in good faith with an agricultural employer whose employees the labor organization is certified to represent, or (4) to engage in certain types of strikes, picketing and boycotts.

PRIMARY ENFORCEMENT AGENCY — Agricultural Labor Relations Board, Sacramento, California 95814 (800-449-3699). The Board is responsible for determining the appropriate unit or units of agricultural employees among which each secret ballot election will be held, for conducting such elections, and for monitoring compliance with the unfair labor practice provisions of the Act. The Board must respond to all complaints of unfair labor practices, through investigation and hearing. In conducting these functions, the Board and its agents have the right of free access to all workplaces and the right to subpoena witnesses and documents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

STATE PEST CONTROL LAWS

STATUTORY CITATION: Cal. Food & Agric. Code §§ 11401–12408

RELATED REGULATIONS: Cal. Code Regs. Title 3, §§ 6000-6972

GENERAL SUMMARY: Division 6 of the Food and Agricultural Code regulates the use and application of agricultural pesticides in California, in part by requiring state licensing of agricultural pesticide users and applicators, local registration of users and applicators, maintenance of pesticide application records, and compliance with specified use and application standards. Included, also, are procedures for reporting damage resulting from pest control operations.

SPECIFIC TERMS AND CONDITIONS

STATE LICENSING -

Agricultural Pest Control Businesses — It is unlawful for any person to engage in the business of pest control for agricultural purposes, for hire, unless the person has an agricultural pest control license issued by the state. Among other conditions on the license application, the applicant must designate a valid qualified applicator licensee responsible for the pest control activities conducted out of the principal office and from each branch location. All applicants for an agricultural pest control license must submit the appropriate application and fees.

Qualified Applicator License — The principal location and each branch location of a licensed pest control business must have at least one person in a supervisory position who holds a qualified applicator license in the category or categories of pest control activities supervised by that person. A qualified applicator license is issued after the applicant successfully passes a core examination covering pesticide use laws and regulations and related safety precautions, and at least one pest control category exam.

FINANCIAL RESPONSIBILITY — As a condition for licensing, agricultural pest control businesses are required to prove the ability to pay damages for any illness, injury or property damage resulting from their work. This requirement may be in the form of liability insurance covering bodily injury up to \$100,000 per person and \$300,000 per occurrence, and property damage up to \$100,000.

REGISTRATION WITH COUNTY — Agricultural pest control businesses may not operate in any county in California without first registering with the county agricultural commissioner. Issuance, maintenance and renewal of county registration is contingent on, among other requirements, the suitability of the registrant's pest control equipment, the competence of the registrant's applicators, and the registrant's compliance with state and county pesticide laws, regulations and orders.

USE PERMITS — With few exceptions, restricted-use pesticides may be purchased and used only by or under the supervision of a certified private or commercial applicator. Furthermore, before restricted-use pesticides may be used for agricultural purposes, the owner or operator of the land or crop involved must obtain from the county agricultural commissioner a restricted material permit, the issuance of which is contingent on submission of prescribed information regarding the target property, the surrounding area, the projected dates of application, and anticipated application problems.

GENERAL STANDARDS OF CARE — Among many other restrictions and requirements enumerated in the regulations, each person who performs pest control operations must use pest control equipment which is in good repair and safe to operate, apply pesticides under climatic conditions suitable to assure safe and proper application, and exercise reasonable precautions to avoid contamination of humans, animals, property and the environment. A copy of the registered label for the product being used must be available at each treatment site.

RECORDKEEPING — Every licensed pest control business is required to keep a record of each pest control operation. Among other data, the record must include the date of the treatment, the name of the owner or operator of the treated property, the location of the property, the crop treated, the total acreage or units treated, the target pest involved, the pesticide used, the equipment employed, and the name of each person performing the treatment.

PESTICIDE USE REPORTS — In general, within 7 days after each application, the holder of a restricted material use permit must make a report of the application to the county agricultural commissioner, on a prescribed form.

PESTICIDE STORAGE AND DISPOSAL — Pesticides, pesticide containers, and equipment that has held a pesticide may not be stored, emptied, disposed of or left unattended in any way or at any place where they could present a hazard to people, animals, food, feed, crops or property. In no case may a pesticide be placed or kept in any container of a type commonly used for food, beverages or household products. Areas where pesticides are stored must be plainly posted with prescribed warning signs.

UNLAWFUL ACTS — It is illegal for pesticide users and applicators (1) to operate in a faulty, careless or negligent manner, (2) to refuse or neglect to comply with any provision of the state pest control laws or the associated regulations and orders, (3) to refuse or neglect to keep required records and make required reports, and (4) to make false or fraudulent claims regarding pesticides or pesticide application methods, or apply any worthless or improper pesticide product.

DAMAGE REPORTS — Anyone who claims any damage or loss from an application of pesticides must, within 30 days from the time of occurrence, file a report with the agricultural commissioner in the county where the damage or loss is alleged to have occurred. Failure to file a report, while neither an offense nor a bar to civil action for recovery of damages, is deemed under the law as evidence that no loss or damage occurred.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

AGRICULTURAL PESTICIDE USE NEAR SCHOOLS — In September 2016, the California Department of Pesticide Regulation proposed rules that would strengthen protections to children when agricultural pesticides are applied close to schools and child daycare facilities. According to DPR, the proposed rules would require growers to notify public K-12 schools, child daycare facilities, and county agricultural commissioners when certain pesticide applications are scheduled near a school site. In addition, certain pesticide applications near school sites would be prohibited at certain times. Once adopted, the rules are expected to take effect in September 2017.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100). This agency has charge of licensing pest control businesses and pesticide applicators in the state, and of ensuring their compliance with substantive pesticide use and application standards. The Department is authorized to order anyone to cease operation of any pest control equipment or facility that is found unsafe or otherwise unsuitable, or that is being operated by an incompetent or unqualified person or in an unsafe manner. Violators of these provisions are subject to administrative fines, civil liability, and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In addition to a multitude of other duties and authorities, county agricultural commissioners are responsible for registering pest control businesses in their respective jurisdictions, for monitoring registrants' operations, and for issuing restricted pesticide use permits. Commissioners also have authority to establish county regulations on the use and application of pesticides, subject to review by the Department of Pesticide Regulation. Like the Department, county agricultural commissioners may halt any pesticide operation determined to be unsafe or potentially hazardous, and may suspend or revoke any restricted material use permit, subject to state agency review. County agricultural commissioners are authorized to investigate pesticide-related complaints and damage claims, and must make a report on each such investigation available to the parties involved.

● STATE PEST CONTROL LAWS (AIRCRAFT OPERATION REGULATION)

STATUTORY CITATION: Cal. Food & Agric. Code §§ 11901–11940

GENERAL SUMMARY: The Food and Agricultural Code contains provisions which regulate the operation of aircraft engaged in pest control services. The Code requires, in part, that aerial pest control pilots be certified by the state and registered in each county in which they operate, and that aerial operators have adequate financial security to satisfy any legal judgment arising in connection with their crop dusting or spraying activities.

SPECIFIC TERMS AND CONDITIONS

PILOTS' CERTIFICATES — It is unlawful for anyone to operate an aircraft for pest control purposes unless the pilot flying the aircraft holds a valid pest control pilot's certificate issued by the state. Before an appropriate pest control aircraft pilot certificate is granted, the applicant must, among other conditions, pass an examination to demonstrate the pilot's ability to legally and safely conduct pest control operations and the pilot's knowledge of the nature and effect of pest control materials. After conducting aerial pest control under the supervision of a pest control aircraft pilot holding a valid journeyman certificate, the apprentice pilot can qualify to take the journeyman pilot exams. Pesticide aircraft operators must also have an appropriate and valid commercial pilot's certificate and a current medical certificate, both issued by the Federal Aviation Administration.

COUNTY REGISTRATION — No one may act as an aerial pest control pilot in any county in California without first registering with the county agricultural commissioner. Ag commissioners have the same authority as the state enforcement agency to revoke, suspend or refuse to issue such registration.

FINANCIAL RESPONSIBILITY — Any time a pest control aircraft operator is subject to a final legal judgment for damages resulting from an aerial pesticide application and the judgment remains unpaid for more than 30 days, the state enforcement agency must suspend the operator's license. The suspension will remain in effect until the judgment is satisfied or the operator submits proof of his or her financial ability to pay. Proof of financial responsibility may be met by furnishing evidence that the dusting or spraying activity which led to the judgment was covered by a surety bond or liability insurance policy, in an amount no less than \$25,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100). The Department is responsible for examining and certifying aerial pest control pilots in the state, and for monitoring compliance with statutory and regulatory standards applicable to their conduct. The Department may suspend, revoke, or refuse to issue a pilot's certificate if evidence presented at a hearing indicates the pilot is not qualified to conduct aerial operations or has violated any state pesticide-related law, regulation or order.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — County agricultural commissioners are responsible for the registration of aircraft pilots engaged in aerial pesticide application activities within their respective jurisdictions. Registration may be denied, suspended or revoked on any of the grounds specified as cause for denial, suspension or revocation of a pest control aircraft pilot's certificate.

STATE PEST CONTROL LAWS (WORKER SAFETY)

STATUTORY CITATION: Cal. Food & Agric. Code §§ 12980-12988

RELATED REGULATIONS: Cal. Code Regs. Title 3, §§ 6700-6795

GENERAL SUMMARY: Division 7 of the California Food and Agricultural Code contains, among other subject matter, provisions requiring agricultural employers to observe specific requirements related to the safety of pesticide handlers and field workers potentially exposed to pesticides.

SPECIFIC TERMS AND CONDITIONS

HAZARDOUS AREAS — If a field is suspected of having been a source of pesticide-related illness, or a potential source of illness, the state agency or county agricultural commissioner may prohibit entry of workers into the treated area. If entry is allowed, medical supervision for workers who will enter the area and have substantial contact with crops or plants may be ordered, and protective clothing and equipment may be prescribed for use by such workers.

APPLICATION EXCLUSION ZONES — No employer may direct or allow non-handler employees into an application exclusion zone (AEZ), defined as an area surrounding application equipment where no entry is permitted during an application. AEZ boundaries are measured from the application equipment as it moves in or over the field being treated. The boundary range can be from 25 to 100 feet, depending on the type of application method.

FIELD WORKER SAFETY — Agricultural employers must comply with the standards summarized below, among others, to protect the safety of field workers who may be exposed to pesticides or pesticide residues through entry into areas treated with pesticides.

Hazard Communication — Whenever employees are working as field workers in a treated field, the employer must display at the worksite or a central gathering place certain prescribed safety informational leaflets provided by the Department of Pesticide Regulation. The employer must also maintain pesticide use records and a safety data sheet for each pesticide listed in those records, and must furnish them to their employees, employees of a labor contractor, or treating medical personnel upon request.

Application Information — Before workers are allowed to enter any field treated with a pesticide, the employer must display at a central location specific information about the treatment, including the specific location, the date and time of the application, the names of the products involved, and a copy of the safety data sheets for the pesticides applied.

Field Work During Pesticide Applications — It is illegal to direct or allow any person (other than those who are involved in the application and are wearing protective clothing or equipment) to enter or remain in a treated area of a field during the application.

Training — Employers must assure that every employee assigned to work in a treated field has received prescribed pesticide safety training within the preceding 12 months before beginning to work in a treated field. The training must be conducted in a manner the employee understands, in a reasonably distraction-free environment, and must include topics such as pesticide hazards, routes of exposure, entry intervals, signs and symptoms of over-exposure, first aid, and employee rights.

Emergency Medical Care — Emergency medical care for workers who enter fields treated with pesticides must be planned for in advance. The employer must locate a facility where emergency care is available, and the workers or their supervisor must be informed of the name and location of a physician or medical facility where such care is available. When there is reason to suspect that an employee has a pesticide illness or over-exposure, the employer must ensure that the employee is taken to a physician immediately. Treating medical personnel must be given copies of the applicable safety data sheets, product names, EPA registration numbers, active ingredients for each pesticide product, and the circumstances of the application or use of the pesticide and how exposure could have resulted.

Decontamination Facilities — Not more than 1/4 mile from where field workers are at work (or at the nearest point of vehicular access), the employer must provide a prescribed amount of water, soap and single-use towels for washing of hands and face, and for emergency eye flushing. Employees must be told where the decontamination site is before they enter a treated field.

Field Re-Entry After Pesticide Applications — Under most circumstances, workers are not permitted to enter any area treated with a pesticide until the farm operator has been notified that the application has been completed and the restricted-entry interval has expired.

Warning Signs — Employers must post warning signs around treated fields in many circumstances, including (1) whenever required on the pesticide product label, (2) whenever applications are made in an entirely or partially enclosed space, (3) applications that result in a restricted entry interval of greater than 4 hours, or (4) in the case of an outdoor application with a restricted-entry interval greater than 48 hours. Warning signs must be in English and Spanish (or other language read by a majority of workers who do not read English), at points of entry around the fields involved and along unfenced adjacent public roadways. The signs must be of prescribed size and include the skull and crossbones symbol and the words "Danger" and "Keep Out." Warning signs must be posted no sooner than 24 hours prior to application, may not be removed during the prescribed re-entry period, and must be removed no later than 3 days after the end of the re-entry period and before workers are allowed to re-enter the fields to perform crop maintenance or harvest operations.

SAFETY OF PESTICIDE HANDLERS — Among many other detailed requirements, the regulatory provisions outlined below apply to employees who mix, load, apply or assist in applying pesticides.

Minimum Age — Handlers, other than members of the owner's immediate family, must be at least 18 years old.

Hazard Communication — Before employees are allowed to handle pesticides, the employer must display at a central location at the workplace certain prescribed informational leaflets provided by the Department of Pesticide Regulation. The employer must also maintain pesticide use records and a safety data sheet for each pesticide listed in those records, and must furnish them to their employees.

Training — Among other requirements, employers of pesticide mixers, loaders, applicators (other than certified applicators) and their assistants must provide safety training to each such employee. Training must cover a range of topics, including the hazards involved, safety procedures to be followed, protective clothing and equipment, the common symptoms of pesticide poisoning, sources of emergency medical treatment, the purposes and requirements for medical supervision, pesticide label requirements, and related laws and regulations. Training must occur before any pesticide worker is allowed to handle pesticides, and at least once a year thereafter.

Medical Care and Supervision — The employer must make arrangements for medical care in the event of pesticide-related emergencies, as well as for medical supervision of workers exposed to certain highly toxic pesticides for prolonged periods of time. Treating medical personnel must be given copies of the applicable safety data sheets, product names, EPA registration numbers, active ingredients for each pesticide product, and the circumstances of the application or use of the pesticide and how exposure could have resulted.

Restrictions for Persons Working Alone — An employee working alone during daylight hours mixing, loading or applying certain especially toxic pesticides is required to make radio, telephone or face-to-face contact with a responsible adult at least once every 2 hours (at least once every *hour*, if working at night).

Changing Facilities — At each site where handler employees mix or load certain prescribed classes of pesticides, the employer must provide a pesticide-free area where workers can change clothes, store their change of clothes, and wash themselves. Clean towels, soap and sufficient water must be available for thorough washing.

Decontamination Facilities — Not more than 1/4 mile from where employees are handling pesticides, the employer must provide a prescribed amount of water, soap and single-use towels for routine washing of hands and face, and for emergency eye flushing and washing of the entire body.

Work Clothing and Safety Equipment — When required by product labeling, the employer must provide prescribed personal protective equipment — including safety glasses and gloves — for each mixer, loader, flagger or applicator of specified toxic pesticides.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100). At reasonable times, without prior notification, representatives of the Department and county agricultural commissioners have authority to enter and inspect property where pesticides are stored, mixed or loaded for application, and the fields and other areas where pesticides have been or are being applied, to determine compliance with the worker safety regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — With respect to the worker safety standards, local health officers are charged with the responsibility of investigating any condition where a health hazard from pesticide use exists, and must take necessary action, in cooperation with the respective county agriculture commissioners, to abate any such condition.

• HAZARDOUS SUBSTANCES INFORMATION AND TRAINING ACT

STATUTORY CITATION: Cal. Lab. Code §§ 6360-6399.7

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 337-339

GENERAL SUMMARY: The Hazardous Substances Information and Training Act ensures the transmission of necessary information to employees regarding the properties and potential risks of hazardous substances in the workplace. Among other provisions, the Act requires employers (1) to make available to their employees material safety data sheets on each toxic chemical and other hazardous substance present at the place of employment, (2) to affirmatively provide material safety information, in written form or through training programs, for every employee who may be exposed to a hazardous substance on the job, and (3) to inform workers of their right to such information or training.

PROVISIONS APPLICABLE TO AGRICULTURE: With the exception of household domestic service, the Act applies to all employment in California, including agricultural labor. Farm operators and other agricultural establishments must comply with the hazardous substance information communication requirements with respect to all such substances with which their workers may come into contact at their farm or non-farm workplace.

With respect to agricultural pesticides, an employer's compliance with the state pesticide worker protection standards, outlined in the preceding entry, is deemed to be compliance with the employer's obligations under the Hazardous Substances Information and Training Act.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. California's hazard communication regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The state administering agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. California's ammonia safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (REPORTING OF PESTICIDE POISONINGS)

STATUTORY CITATION: Cal. Lab. Code §§ 6409

GENERAL SUMMARY: The California Occupational Safety and Health Act imposes the responsibility on all employers in the state to safeguard the well-being of their employees. Not only are employers obligated to comply with specific safety and health orders and regulations issued under the Act's rulemaking provisions, but they must also observe certain reporting requirements related to accidents involving pesticides.

SPECIFIC TERMS AND CONDITIONS: Any physician who treats or attends to an injured employee must file a report of occupational injury or illness with the employer or the employer's insurer. If treatment is for pesticide poisoning, or a condition suspected of being pesticide poisoning, the employer or the employer's insurer must file a copy of the physician's report with the state industrial relations department within 5 days. The treating physician must also forward the report to the state agency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Failure to file a report regarding an injured employee is a misdemeanor, punishable by a fine of up to \$200.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

TRANSPORTATION

STATUTORY CITATION: Cal. Veh. Code §§ 31401-31409

RELATED REGULATIONS: Cal. Code Regs. Title 13, §§ 1200-1270.5

GENERAL SUMMARY: The California Vehicle Code authorizes the adoption of regulations to promote the safe operation of farm labor vehicles, defined as any motor vehicle designed, used or maintained for the transportation of 9 or more farmworkers (in addition to the driver) to or from a place of employment or employment-related activities. Farm labor vehicles must also be inspected and may not be operated without a certificate issued by the enforcement agency in accordance with these provisions.

SPECIFIC TERMS AND CONDITIONS

INSPECTION — Every farm labor vehicle must be inspected at least once a year to determine if its construction, design and equipment comply with all applicable laws and regulations. No one may drive any farm labor vehicle unless a certificate issued by the enforcement agency and attesting to the inspection and compliance is displayed in the vehicle. Except to take the unloaded vehicle to a repair facility, or until the vehicle and its equipment have been made to conform to state standards, no one may drive any farm labor vehicle after notice by the state agency to the owner that the vehicle is unsafe or not equipped as required.

MECHANIC'S CERTIFICATION — A farm labor vehicle known to an owner, farm labor contractor or driver to be unsafe, or not equipped as required by law, may not be used to transport any passengers until it is properly repaired or equipped and certified as such by a competent mechanic.

DESIGN AND EQUIPMENT REQUIREMENTS — Unless a specific exemption has been granted by the enforcement agency and is carried in the vehicle for which it was issued, every farm labor vehicle must be designed and equipped as prescribed by regulation. Among other requirements, each vehicle's brakes, tires and rims, exhaust system, electrical system, lighting, windows, mirrors, doors and seats must meet detailed numerical and qualitative standards, and the vehicle must have a fire extinguisher, first-aid kit and roadside warning devices. With few exceptions, farm labor vehicles must be equipped with passenger seatbelts. The administrative rules also prescribe the design and maintenance of vehicle emergency exits.

PENALTIES — Anyone who operates a farm labor vehicle that presents an immediate safety hazard is guilty of a misdemeanor punishable by a fine ranging from \$1,000 to \$5,000, by a jail sentence of up to 6 months, or both.

SPECIAL NOTES OR ADVISORIES

To report a farm labor vehicle violation, call the Highway Patrol toll-free at 1-800-TELL-CHP (1-800-835-5247).

PRIMARY ENFORCEMENT AGENCY — Commercial Vehicle Section, California Highway Patrol, Sacramento, California 95811 (916-843-3400). The Highway Patrol is responsible for the certification of farm labor vehicles and may inspect any such vehicle on any public roadway in the state, and at any maintenance facility, terminal, labor camp or other private property, to ensure compliance with these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

DRIVERS' LICENSE LAWS

STATUTORY CITATION: Cal. Veh. Code §§ 12519

RELATED REGULATIONS: Cal. Code Regs. Title 13, §§ 1200–1270.5

GENERAL SUMMARY: The state drivers' license laws provide for the issuance of farm labor vehicle drivers' certificates, which apply to the operation of any motor vehicle designed, used or maintained for the transportation of 9 or more farmworkers (in addition to the driver) to or from a place of employment or employment-related activities.

SPECIFIC TERMS AND CONDITIONS

FARM LABOR VEHICLE DRIVER'S CERTIFICATE — No person may operate a farm labor vehicle unless the person has in his or her possession (1) a driver's license for the appropriate class of vehicle to be driven, and (2) when transporting one or more farmworker passengers, a farm labor vehicle driver's certificate issued by the state. Before such a certificate will be issued, applicants must, among other requirements, present evidence that they have successfully completed a state-sanctioned driver training course, pass a state-administered examination, and pay a \$12 fee.

GROUNDS FOR REFUSING ISSUANCE — The state administering agency will deny a farm labor vehicle driver's certificate to any applicant who (1) has been convicted, within the 3 years immediately preceding application, of certain specified driving violations, or has had the driving privilege suspended, revoked or placed on probation for a cause involving unsafe operation of a motor vehicle, (2) has a history of excessive use of alcoholic beverages or drugs, or (3) does not meet state minimum medical standards. Issuance of a certificate may also be denied to any applicant who has been determined to be a reckless or incompetent driver.

GROUNDS FOR REVOCATION — The state agency will revoke the farm labor vehicle driver's certificate of any driver who, after issuance of the certificate, (1) is convicted of certain specified driving violations, has had the driving privilege suspended or revoked for a cause involving unsafe operation of a motor vehicle, or is found by the state agency to be a negligent driver, (2) is incapable of safe driving due to excessive and continual use of alcoholic beverages, or (3) habitually or excessively uses or is addicted to the use of any drug. Likewise, the agency may revoke a certificate for any cause, whether existing before or after the issuance of the certificate, which would represent grounds for refusing to issue a certificate to an applicant.

IMMEDIATE-FAMILY EXEMPTION — In addition to the exception for vehicles used to transport fewer than 9 workers, the farm labor vehicle license laws do not apply to any vehicle carrying only members of the immediate family of the owner or driver of the vehicle.

SPECIAL NOTES OR ADVISORIES

To report a farm labor vehicle violation, call the Highway Patrol toll-free at 1-800-TELL-CHP (1-800-835-5247).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Commercial Vehicle Section, California Highway Patrol, Sacramento, California 95811 (916-843-3400). This agency is responsible for the testing of farm labor vehicle drivers and for issuing temporary certification of qualified drivers pending issuance of a final certificate by the Department of Motor Vehicles. The Highway Patrol is also responsible for enforcing the laws governing operation of motor vehicles on the state's streets and highways.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Licensing Operations Division, Department of Motor Vehicles, Sacramento, California 95818 (916-657-6721).* As noted above, the Department of Motor Vehicles is the agency which licenses drivers in the state and issues farm labor vehicle drivers' certificates to applicants who have passed the required examinations and meet other certification standards.

WAGES AND HOURS

WAGE AND HOUR LAWS (MINIMUM WAGE)

STATUTORY CITATION: Cal. Lab. Code §§ 1171–1206

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11130 & 11140

GENERAL SUMMARY: The California state minimum wage is prescribed by statute through the year 2023 and applies to most workers in most industries, depending only on the size of each employer's workforce.

Employers with 25 Employees or Fewer — Workers employed by an establishment with no more than 25 employees must be paid no less than the following during the indicated time period:

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January 1, 2017—December 31, 2017: $10.00 per hour January 1, 2018—December 31, 2018: $10.50 per hour January 1, 2019—December 31, 2019: $11.00 per hour January 1, 2020—December 31, 2020: $12.00 per hour January 1, 2021—December 31, 2021: $13.00 per hour January 1, 2022—December 31, 2022: $14.00 per hour January 1, 2023—December 31, 2023: $15.00 per hour
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Employers with 26 Employees or More — Workers employed by an establishment with more than 25 employees must be paid no less than the following during the indicated time period:

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January 1, 2017—December 31, 2017: $10.50 per hour January 1, 2018—December 31, 2018: $11.00 per hour January 1, 2019—December 31, 2019: $12.00 per hour January 1, 2020—December 31, 2020: $13.00 per hour January 1, 2021—December 31, 2021: $14.00 per hour January 1, 2022—December 31, 2023: $15.00 per hour
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Beginning in 2023, on or before August 1 each year and subject to certain economic conditions, the state finance director will increase the minimum wage by the *lesser* of (a) 3.5 percent, or (b) the rate of change in the consumer price index for urban wage earners and clerical workers, but in no case will the existing rate be lowered. The adjusted minimum wage will become effective the following January 1.

The state industrial welfare commission has authority to investigate wages, hours and working conditions in any occupation, trade or industry, and if the wages paid are inadequate to maintain a proper living standard, the commission must appoint a wage board, composed of an equal number of representatives of employers and employees, to consider the commission's findings and other information, and to recommend an appropriate minimum wage higher than the wage floor set by the legislature.

PROVISIONS APPLICABLE TO AGRICULTURE: The following minimum wage provisions applicable to agricultural employment have been adopted by the industrial welfare commission:

PLANTING, CULTIVATION, AND HARVEST OPERATIONS — The wage order regulating pay in planting, cultivation and harvest operations currently specifies an hourly rate that is below the statutory minimum set by the legislature. Workers in these occupations, therefore, are generally entitled to receive at least the minimum rate specified above for each hour of work.

ON-FARM PREPARATION OF CROPS FOR MARKET — The wage order regulating pay for persons engaged in on-farm preparation of crops for market currently specifies an hourly rate that is below the statutory minimum set by the legislature. Workers in these occupations, therefore, are generally entitled to receive at least the minimum rate specified above for each hour of work.

MEALS AND LODGING — Provided there is a voluntary written agreement for such an arrangement between the employer and the worker, the cost of adequate, well-balanced meals and decent, sanitary housing supplied by an agricultural employer and actually utilized by an agricultural employee may be credited against the minimum wage. However, the credit for each meal may not exceed \$2.45 for breakfast, \$3.35 for lunch, or \$4.50 for dinner, and the housing credit is limited to \$31.75 per week for a room occupied alone, \$26.20 a week for a shared room, and 2/3 of the ordinary rental value for an apartment. The maximum credit for an apartment is \$563.90 per month where a couple are both employed by the employer, and \$381.20 for all others.

SPECIAL NOTES OR ADVISORIES

PIECE-RATE WORKERS — In accordance with a provision in the state wage payment laws, employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The required pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division is authorized to investigate the wages being paid to any employee in the state and to enforce compliance with the wage orders adopted under the wage and hour laws. With the consent of the worker or workers affected, the agency may commence civil action to recover unpaid minimum wages. The Division is responsible for supervision of the payment of unpaid minimum wages owing to any employee under these provisions. Violation of a wage order by an employer is a misdemeanor, punishable by a fine, imprisonment or both. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who receives less than the legal minimum wage may file a private suit to recover the unpaid balance of the full amount, together with costs of the lawsuit, but if the worker accepts payment of any sums found to be due on demand of the Division, such acceptance constitutes a waiver on the worker's part of his or her right to sue.

→ WAGE AND HOUR LAWS (HOURS AND OVERTIME)

STATUTORY CITATION: Cal. Lab. Code §§ 1171-1206

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11130 & 11140

GENERAL SUMMARY: Just as it may with respect to wages, the state industrial welfare commission has authority to investigate hours and working conditions in any trade, occupation or industry in California, and to adopt appropriate orders regulating hours of employment whenever existing conditions are found prejudicial to the health or welfare of any segment of the workforce. Employment of any worker for longer hours than those specified in a formally adopted order, or under conditions of labor contrary to such an order, is prohibited.

PROVISIONS APPLICABLE TO AGRICULTURE: The industrial welfare commission has adopted the following provisions governing hours and overtime in agricultural employment:

OVERTIME IN PLANTING, CULTIVATION, AND HARVEST OPERATIONS — In the planting, cultivation and harvest of agricultural crops, and in the preparation of cropland, no one 18 years of age or older (other than certain irrigators) may be employed more than 10 hours in any one day, or more than 6 days in any one workweek, unless the worker is paid 1½ times his or her regular rate of pay for each hour of work after 10 in any one day and for the first 8 hours of work on the seventh day, and 2 times the regular rate of pay for each hour of work after 8 on the seventh day. These same overtime rules apply to workers who are 16 or 17 years old and are not required by law to attend school.

The overtime provision does not apply to workers employed on 7 workdays in a particular week when the worker's total hours that week do not exceed 30 and the worker's hours on any one workday do not exceed 6.

NOTE ON RECENT AMENDMENTS — The overtime protections for workers employed in planting, cultivation and harvest operations were expanded significantly by legislation enacted in September 2016. The new provisions are being phased in, according to the following schedule:

Farms That Employ More Than 25 Workers —

Beginning January 1, 2019 — Planting, cultivation and harvest workers may not be employed for more than 9 ½ hours a day, or for more than 55 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2020 — Planting, cultivation and harvest workers may not be employed for more than 9 hours a day, or for more than 50 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2021 — Planting, cultivation and harvest workers may not be employed for more than 8 ½ hours a day, or for more than 45 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2022 — Planting, cultivation and harvest workers may not be employed for more than 8 hours a day, or for more than 40 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours, nor for more than 12 hours in one day unless they receive twice their regular pay rate for all hours over 12.

Farms That Employ 25 Workers or Fewer —

Beginning January 1, 2022 — Planting, cultivation and harvest workers may not be employed for more than 9 ½ hours a day, or for more than 55 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2023 — Planting, cultivation and harvest workers may not be employed for more than 9 hours a day, or for more than 50 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2024 — Planting, cultivation and harvest workers may not be employed for more than 8 ½ hours a day, or for more than 45 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2025 — Planting, cultivation and harvest workers may not be employed for more than 8 hours a day, or for more than 40 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours, nor for more than 12 hours in one day unless they receive twice their regular pay rate for all hours over 12.

OVERTIME IN ON-FARM PREPARATION OF CROPS FOR MARKET — In general, no worker 18 years old or over may be employed in on-farm packing operations for more than 40 hours in any workweek, unless the worker receives 1½ times the regular rate of pay for all hours worked in excess of 40 that week. Workers are also entitled to time-and-a-half for up to 4 hours after the first 8 hours of work on any day, and for the first 8 hours of work on the seventh day of the workweek. Employers must pay *double* time for all hours in excess of 12 in any one day, and in excess of 8 on the seventh day.

MEAL PERIODS — Except when a work period of 6 hours or less will complete the day's work, all farm employers must permit their employees to take a meal break of at least 30 minutes after each work period of not more than 5 hours. If the employer requires a worker to remain on duty during a meal period, the arrangement must be in writing and the meal period must be counted as paid work time.

REST PERIODS — All farmworkers who are on the job for at least $3^{\circ}/2$ hours on a given day are entitled to 10 minutes of rest for every 4 hours of work time that day. The rest period counts as paid work time.

COMP TIME IN LIEU OF TIME-AND-A-HALF — The provision elsewhere in the state labor laws that permits employers to grant time off in lieu of paying overtime pay *does not apply* to workers employed in planting, cultivation and harvest operations, or employed in on-farm preparation of crops for market.

SPECIAL NOTES OR ADVISORIES

PIECE-RATE WORKERS — In accordance with a provision in the state wage payment laws, employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The required pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). Representatives of this agency are expressly authorized to investigate employees' hours and working conditions, and to supervise the payment of unpaid overtime compensation owed any employee under these provisions. With the consent of the employee or employees involved in a claim, the Department may take civil court action to recover unpaid overtime compensation. Violation of a wage or hour order is a misdemeanor, punishable by a fine, jail term or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any employee who receives less than the legal overtime compensation applicable to his or her employment may take action to recover the unpaid earnings in a private civil suit. However, a worker's acceptance of payment of any sums found to be due on demand of the enforcement agency constitutes a waiver on the worker's part of the private right to sue.

WORKING HOURS LAW

STATUTORY CITATION: Cal. Lab. Code §§ 510-558.1

GENERAL SUMMARY: The state labor laws regulating working hours provide that 8 hours of labor constitute a day's work, unless otherwise agreed to by the parties to a contract. Employees covered by this law are entitled to receive 1½ times their regular rate of pay for all hours worked in excess of 8 hours in one day and 40 hours in one workweek, and twice their regular rate of pay for work in excess of 12 hours in any one day and after 8 hours on the seventh day of a workweek.

Likewise, every person employed in any non-exempted occupation is entitled to one day's rest from the job in a 7-day period, and employers may not compel their employees to work more than 6 days in 7. Covered employees who work more than 5 hours straight also generally have the right to a meal period of at least 30 minutes.

PROVISIONS APPLICABLE TO AGRICULTURE: At least until 2025, the full applicability to farmworkers of the overtime protections described here is overridden by the overtime provisions summarized in the previous entry. The day-of-rest and meal period provisions currently apply to virtually all farm employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT LAWS

STATUTORY CITATION: Cal. Lab. Code §§ 200-273

GENERAL SUMMARY: California's wage payment laws establish minimum standards regarding paydays and pay periods, termination pay, method of pay, withholding and deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS —

Agricultural Workers in General — Except for final payment on discharge or layoff, all wages earned by an agricultural employee are due and payable twice each calendar month, on days designated in advance by the employer as the regular paydays. Work performed from the 1st through the 15th day of the month must be paid between the 16th and the 22nd of that month; work performed from the 16th through the last day of the month must be paid between the 1st and the 7th of the following month.

Agricultural Workers Furnished Room and Board — When agricultural workers are boarded and lodged by the employer, wages are due and payable once each calendar month, on a day designated in advance by the employer as the regular payday. No two successive paydays may be more than 31 days apart, and payment must include all wages earned up to the regular payday.

Agricultural Workers Employed by a Farm Labor Contractor — Agricultural workers employed by a farm labor contractor or crew leader must receive their pay at least once a week, on a business day designated in advance by the contractor. Payment must include all wages earned up to and including the 4th day before such payday.

TERMINATION PAY —

Discharge or Layoff — Whenever an employer discharges a worker, wages earned and not yet paid are due and payable immediately. Workers who are seasonally employed in the curing, canning or drying of perishable fruits and vegetables and who are laid off must receive final pay within 72 hours.

Resignation — If an employee with no written contract for a definite period quits the job, the worker's wages are payable no later than 72 hours after resignation. Workers who give at least 72 hours' prior notice of their intention to quit are entitled to final pay at the time of quitting.

FORM OF PAYMENT — Wages are required to be paid in lawful currency, or by check or similar draft payable on demand in cash and without discount. Employers may not pay workers in scrip, coupons or other such medium redeemable in merchandise.

ITEMIZED PAY STATEMENTS — Every non-governmental employer must, at the time of each payment of wages or at least semi-monthly, provide each employee with an itemized written statement showing (1) gross earnings, (2) total hours worked, if compensation is based on an hourly wage, (3) all deductions from earnings, (4) net wages earned, (5) the dates of the period for which the worker is being paid, (6) the worker's name and Social Security number, and (7) the name and address of the employer. In addition, employers who pay wages in cash must make a permanent written record of the deductions made from their workers' wages and must safeguard the wage deduction data for at least 3 years.

PIECE-RATE WORKERS — Employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612. This agency is responsible for investigating reported or suspected violations of the wage payment laws and has authority to enter workplaces, interview workers and employers, and inspect payroll records. Any worker who has not received regular or final pay in accordance with these provisions may file a claim, available online at http://www.dir.ca.gov/dlse/HowToFileWageClaim.htm, or email DLSE2@dir.ca.gov.

After investigation and hearing, a finding by the Division that a wage claim is valid gives the employer 10 days after receipt of notice to pay the amount in question. Any employer who has the ability to pay but who willfully fails to pay wages due within the 10-day limit must pay *triple* the amount of any damages accruing to the worker as a result of the employer's failure to pay. Such employers are also subject to civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by an alleged violation of this law may take legal action in civil court to recover lost wages, interest, attorney's fees and court costs, using a private attorney or public legal service provider.

→ PERSONAL INCOME TAX AND WITHHOLDING TAX LAWS

STATUTORY CITATION: Cal. Rev. & Tax. Code §§ 17001-21028; Cal. Unemp. Ins. Code §§ 13000-13101

GENERAL SUMMARY: The Personal Income Tax Law imposes a state tax on personal income and requires most employers to deduct and withhold state income tax from wages paid to their employees each payroll period. The withholding tax laws define the wages which are subject to withholding and prescribe the procedures for tax withholding, remittance and reporting.

PROVISIONS APPLICABLE TO AGRICULTURE: Remuneration paid for agricultural labor is not regarded as "wages" under these provisions. Hence, agricultural employers and their workers are **exempt** from the state income tax withholding requirements.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Tax Branch, Employment Development Department, Sacramento, California 95814 (888-745-3886).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Franchise Tax Board, Sacramento, California 95812 (916-845-4543).

Colorado

Colorado					
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Colorado

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

○ COLORADO YOUTH EMPLOYMENT OPPORTUNITY ACT OF 1971

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-12-101 - 8-12-117

GENERAL SUMMARY: The Colorado Youth Employment Opportunity Act regulates the employment of minors in the state by prescribing minimum age requirements and maximum hours of work, limiting the occupations in which youth may be employed, and imposing other limitations and restrictions.

PROVISIONS APPLICABLE TO AGRICULTURE

HOURS LIMITATIONS —

Children Under Age 12 — With few exceptions, children under the age of 12 years may not be employed in agricultural work.

Children Age 12 and 13 — Children 12 and 13 years of age may be employed in non-hazardous agricultural occupations, but only outside school hours or on non-school days. After school hours, 12- and 13-year-olds are not permitted to work more than 6 hours, unless the next day is not a school day. Similarly, no such child may work between the hours of 9:30 p.m. and 5:00 a.m., except on nights preceding non-school days. Employment for more than 40 hours a week or more than 8 hours in a 24-hour period is prohibited.

Children Age 14 and 15 — Children 14 and 15 years of age may be employed in non-hazardous agricultural occupations, but only outside school hours or on non-school days. Except before non-school days, 14- and 15-year-olds may not work more than 6 hours in any one day, nor between the hours of 9:30 p.m. and 5:00 a.m. In seasonal employment in the cultivation or harvest of perishable products where wages are paid on a piecework basis, children 14 and 15 years old may work up to 12 hours in a 24-hour period and up to 30 hours in a 72-hour period, but such individuals may not work more than 8 hours a day for more than 10 days within any 30-day period; employment of 14- and 15-year-olds in any other situations is subject to a maximum workday of 8 hours in a 24-hour period and a maximum workweek of 40 hours.

Children Age 16 and 17 — Persons 16 and 17 years of age may work in non-hazardous, piecework-paid seasonal agricultural operations for up to 12 hours in any 24-hour time span, and for up to 30 hours in any 72-hour period. Employment in other non-hazardous occupations is limited to 40 hours a week, and 8 hours in any 24-hour period.

HAZARDOUS OCCUPATIONS — Among the agriculturally related activities declared hazardous to minors and for which employment is generally forbidden to workers under the age of 18 is work from a ladder or other raised platform more than 20 feet above the ground.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). This agency may receive and investigate complaints regarding the employment of minors, and may investigate employers and inspect records to determine compliance with the Act. Violation of the child labor provisions can lead to criminal penalties against the employer, as well as the parent or guardian of the minor involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SCHOOL ATTENDANCE LAW OF 1963

STATUTORY CITATION: Colo. Rev. Stat. §§ 22-33-101 - 22-33-111

GENERAL SUMMARY: With few exceptions, the School Attendance Law requires the parent or other custodian of a child between the ages of 6 and 16, inclusive, to see that the child attends a public school (or receives approved comparable academic instruction) for the full school year prescribed by state law.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworker parents or guardians and the children in their custody are subject to the compulsory attendance law to the same extent as other parents and children.

PRIMARY ENFORCEMENT AGENCY — The School Attendance Law is enforced by the elected board of education in each local school district, through attendance officers employed for that purpose. District attendance officers are responsible for investigating the causes of non-attendance, reporting their findings to the respective local board of education, and counseling with students and parents. Only after the district has attempted other options for addressing truancy, court action may be initiated against the parent and child involved to compel attendance. Failure to comply can subject a parent to a jail term.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Colorado Department of Education, Denver, Colorado 80203 (303-866-6600). The Department may advise the individual school districts concerning enforcement of compulsory school attendance.

CIVIL RIGHTS

CIVIL RIGHTS LAWS

STATUTORY CITATION: Colo. Rev. Stat. §§ 24-34-301 – 24-34-406

GENERAL SUMMARY: The state civil rights statutes define certain unfair employment practices and establish a process for accepting and responding to complaints involving job-related discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE

UNFAIR EMPLOYMENT PRACTICES — As for most other classes of employers, it is unlawful for a farm operator or other agricultural establishment to refuse to hire, to fire, to promote or demote, or to discriminate in the payment of wages against any otherwise-qualified person because of disability, race, creed, color, sex, pregnancy, sexual orientation (including transgender status), religion, age (over 40), national origin, ancestry, or marriage to a co-worker. Retaliation by an employer against a worker because the worker opposed a discriminatory practice, or participated in an employment discrimination proceeding, is also regarded as an unfair employment practice and therefore illegal.

Employment agencies and labor organizations are barred from similar acts of discrimination.

COMPLAINTS — Anyone who believes he or she has been discriminated against by an employer, employment agency or labor organization on any of the grounds listed above may file a complaint with the enforcement agency, within 6 months after the alleged discriminatory or unfair employment practice occurred. After the filing of a complaint, the agency's staff must notify the respondent of the charges, and if both the complainant and the respondent agree to the process, proceed to alternative dispute resolution. If alternative dispute resolution is declined or is unsuccessful, the agency must undertake an investigation of the charge and will issue a finding of either "probable cause" or "no probable cause," which is then either confirmed or scheduled for appeal by the Colorado Civil Rights Commission. Remedies may include, among others, hiring, reinstatement or upgrading, with or without back pay.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Colorado Civil Rights Division, Colorado Department of Regulatory Agencies, Denver, Colorado 80202 (303-894-2997; toll-free 800-262-4845). The Civil Rights Division is responsible for receiving, investigating and deciding the merits of charges alleging unfair or discriminatory employment practices in violation of these provisions. Depending on the circumstances of the case, an employer found to have violated these provisions may be liable for the payment of back pay, compensatory and punitive damages, attorney's fees and court costs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — If a complaint is dismissed by the Division, the agency must so notify the worker; within 90 days thereafter, the worker may file a private suit to enforce compliance, using a private attorney or public legal service provider. In most cases, no such private civil action may be filed without first exhausting the proceedings and remedies available through the Civil Rights Division.

○ STATE LABOR LAWS (WAGE EQUALITY)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-5-101 - 8-5-106

GENERAL SUMMARY: The state labor laws contain a provision prohibiting wage and salary discrimination solely on the basis of the employee's sex, and exposing employers who commit violations to civil penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage equality provisions do not apply to farm and ranch laborers.

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

STATUTORY CITATION: Colo. Rev. Stat. § 25-1.5-101

RELATED REGULATIONS: 6 Code Colo. Regs. § 1010-11-4.5 and § 1010-11-5.3

GENERAL SUMMARY: Using rulemaking authority under Article 1.5, Part 1 of the state health statutes, the state board of health has established regulations governing the operation of labor camps. Provisions in those regulations require employers of agricultural field and packing shed workers who live in labor camps to provide those workers with certain sanitary facilities on the job.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Potable drinking water must be readily available to both field and shed workers. The water must be clean and sanitary, and the use of common drinking cups is prohibited.

TOILET AND HANDWASHING FACILITIES — Toilets and handwashing equipment, for use by field and shed workers, must be provided within 1/4 mile from the farthest point of the worksite. There must be at least one toilet and one washing unit for every 25 workers of each sex; if fewer than 10 workers are employed at the site, one toilet and one washing facility may be shared by both sexes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

STATUTORY CITATION: Colo. Rev. Stat. § 25-1.5-101

RELATED REGULATIONS: 6 Code Colo. Regs. 1010-11

GENERAL SUMMARY: Using rulemaking authority under Article 1.5, Part 1 of the state health statutes, the state board of health has established regulations governing the operation of labor camps.

PROVISIONS APPLICABLE TO AGRICULTURE

Any building, trailer, tent, vehicle or other structure used as temporary living quarters for one or more farmworkers (among other types of employees) must comply with sanitation and safety standards adopted by the board of health and summarized below. The regulations do not include licensing requirements.

CAMP SITE — The land on which the worker housing facility is located must be well-drained and adequately protected against potential health and safety hazards. Camp structures must be at least 50 feet from any livestock or poultry pen. The camp operator is responsible for the clean, safe and sanitary condition of the premises prior to each occupancy.

WATER SUPPLY — The water system must be constructed and maintained in such a way as to assure camp residents of a safe and adequate supply of water which meets prescribed standards. There must be hot water available for bathing, laundry and dishwashing purposes.

WASTE DISPOSAL — Where a public sewer system is available, the camp's drains and sewage lines must be connected to it. Otherwise, the camp must have its own sewage disposal system which meets state requirements.

TRASH AND GARBAGE DISPOSAL — The camp operator is required to provide metal containers with tight-fitting lids for the temporary storage of garbage and other refuse.

PEST CONTROL — Rodents, insects and other pests must be effectively controlled, through the use of sanitary practices by occupants, extermination, and other safe and effective control methods.

BUILDING STANDARDS — Dwelling units must be structurally sound and provide suitable protection of the occupants against the elements. Living areas must provide prescribed minimum floor space for each occupant, and habitable rooms must comply with minimum standards of lighting, ventilation and safety.

HEATING — Where artificial heating is required, all dwellings and shower rooms must have properly installed heating equipment capable of maintaining a room temperature of 68 degrees F.

LIGHTING — Where electric service is available within 500 feet of the property, each habitable room and service room must be provided with at least one ceiling-type light fixture and one separate electrical outlet.

HOUSEHOLD EQUIPMENT — Tables, chairs, beds, and shelving or clothing hooks must be furnished in each unit. Each occupant must have a bed, bunk or cot, along with a mattress.

COOKING AND EATING FACILITIES — All housing, whether for single-family or common use, must have kitchen facilities, including counters, shelves, stoves and dishwashing equipment. Where electricity is available, mechanical refrigeration is required.

TOILET, BATHING, AND LAUNDRY FACILITIES — Toilets, wash basins, showers or tubs, sinks, and laundry equipment must be provided in the minimum numbers specified in the regulations, according to the type of occupancy. Plumbing fixtures must be maintained in good working order and in clean and sanitary condition. Where facilities are shared by more than one family, there must be separate toilet rooms for each sex. Toilets must be located within 200 feet of each dwelling unit, but no privy may be any closer than 50 feet.

FIRE PROTECTION — The camp premises and all structures on the property must be used and maintained in accordance with local fire prevention regulations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-70-101 - 8-82-105

GENERAL SUMMARY: Declaring economic insecurity due to unemployment a serious menace to the health, morals and welfare of the people of the state, the Colorado Employment Security Act provides for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. The benefits authorized by the Act are financed by a payroll tax levied against covered employers, who are generally those who paid \$500 or more during any calendar quarter in the current or preceding calendar year, or employed at least one person for some part of a day in 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for farm labor, or (2) employed at least 10 workers in agricultural labor for some portion of a day in at least 20 different calendar weeks in the current or preceding calendar year, are required to pay contributions into the state unemployment compensation fund. Employers are subject to taxation on the first \$11,000 in wages paid to each employee in a calendar year, at a tax rate set by the state annually for each employer.

ELIGIBILITY FOR BENEFITS — A worker is generally eligible for weekly unemployment insurance benefits if the worker (1) is registered for work, able to work, available for work, and actively seeking work, (2) has been unemployed for a waiting period of one week, and (3) has, during the first four of the last five completed calendar quarters preceding the claim, earned at least 40 times the weekly benefit amount, explained below, or \$2,500, whichever is greater.

AMOUNT OF BENEFITS — Each eligible individual who is totally unemployed in any week is paid benefits at the rate of 60 percent of 1/26 of the wages paid for insured work during the two consecutive quarters of the four-quarter base period in which total wages were highest. The weekly benefit amount will generally range from \$25 up to a limit equal to 55 percent of the average weekly earnings in all covered industries in the state. For any week of partial unemployment, the amount of benefits payable is equal to the weekly benefit amount, minus that portion of the week's earnings which exceeds 25 percent of the weekly benefit amount. Except under unusual circumstances, UI benefit checks are issued every two weeks.

SEASONAL WORKER PROVISIONS — With respect to a claim filed by a worker who has any earnings from employment in an industry designated by the state agency as seasonal, benefits based on those earnings may not be collected outside the designated normal employment season for the industry in which the wage credits were earned. Moreover, the total amount of benefits payable on the basis of seasonal wages may not exceed 1/3 of the claimant's seasonal earnings during the four-quarter base period.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Unemployment Insurance, Colorado Department of Labor and Employment, Denver, Colorado 80201 (303-318-9100). The Division is responsible for determining employer liability for unemployment insurance taxes and for collecting contributions from liable employers. The agency also processes claims for UI benefits, hears and decides claims appeals, and supervises benefit payments. Applications for unemployment compensation may be filed online, at coloradoui.gov, or by calling the Division's customer service number at 1-800-388-5515.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION ACT OF COLORADO

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-40-101 - 8-47-209

GENERAL SUMMARY: The Workers' Compensation Act provides workers who are injured on the job with a pronounced advantage over the employer in a lawsuit to recover damages, by precluding as a defense any claim by the employer that the worker had assumed the risk of the hazard that led to the injury, that the injury was caused by the negligence of a co-worker, or that the injury was caused by the worker's own negligence.

As an alternative to virtually unlimited liability on the employer's part, and lengthy and expensive legal action by the worker, the Act requires covered employers either (1) to secure and maintain in effect a policy of workers' compensation insurance that will cover medical, hospital and rehabilitation expenses, provide periodic payments in lieu of lost wages, and meet other costs due to work-related injury or death, or (2) to obtain a self-insurance permit from the state evidencing the employer's financial ability to provide the same benefits prescribed in a workers' compensation insurance policy.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural employers who have one or more employees are required to protect their workforce with workers' compensation coverage to the same extent as covered non-agricultural establishments.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Colorado Department of Labor and Employment, Denver, Colorado 80202 (888-390-7936). This agency is charged with processing workers' compensation claims by injured employees or their dependents, and for assuring the payment of compensation benefits to eligible claimants.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

WAGE PAYMENT LAWS (FIELD LABOR CONTRACTORS)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-4-101 - 8-4-123

GENERAL SUMMARY: Among other provisions, the state wage payment laws require individuals who recruit, solicit, hire or furnish migratory farm labor for seasonal employment to register with the state and to comply with certain obligations and restrictions in their contracting activities.

PROVISIONS APPLICABLE TO AGRICULTURE

REGISTRATION — No one may operate as a field labor contractor in Colorado without first obtaining a certificate of registration from the state, and unless the certificate is fully in effect and in the contractor's immediate possession. Among other prerequisites to issuance of a registration certificate, the applicant must present evidence that he or she has satisfied state workers' compensation insurance coverage requirements.

OBLIGATIONS — Field labor contractors must carry the certificate of registration at all times while engaging in contractor activities and exhibit the certificate to all parties with whom they intend to deal in that capacity. At the time of recruitment, contractors must provide each migratory laborer with a written disclosure, in a language in which the worker is fluent, indicating the area of intended employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rate to be paid, and the charges to be assessed against the worker for contracting services. Labor contractors must pay workers' wages promptly when due and must promptly deliver to each worker anything of value entrusted to them on the worker's behalf.

PROHIBITED ACTS — The state may refuse to issue or renew a registration certificate, or may suspend or revoke an existing certificate, in the case of any contractor who (1) makes false statements or misrepresentations on an application for a certificate, (2) gives false or misleading information to migrant workers concerning the terms, conditions or availability of agricultural employment, (3) fails without justification to perform agreements with farm operators or to comply with the terms of any working arrangements made with workers, or (4) allows required workers' compensation insurance to lapse or become inoperative.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). In enforcing these provisions, the Department may investigate specific complaints lodged by migratory workers against field labor contractors, or may investigate suspected violations on its own initiative. Any contractor found to have violated any of these provisions is subject to civil fines imposed by the agency, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE LABOR RELATIONS LAWS

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-2-104 and 8-2-107

GENERAL SUMMARY: The state laws governing labor relations make it illegal for anyone to bring workers into Colorado for the purpose of employment, or to induce or persuade workers to change from one place of employment to another within the state, by means of false or deceptive representations, false advertising or false pretenses concerning the kind of work to be done, the amount or nature of compensation to be paid, the sanitary or other conditions of employment, or the existence or non-existence of a strike or lockout. Any worker who has been subjected to or victimized by such treatment or actions is entitled to recover all damages sustained as a consequence, in addition to court costs and attorney's fees.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply without distinction between agricultural and non-agricultural workers or employment.

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Through a private attorney or public legal service provider, a worker who has suffered damages as a result of a violation of these provisions may file suit in civil court against the party responsible.

LABOR RELATIONS AND COLLECTIVE BARGAINING

○ LABOR PEACE ACT

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-3-101 - 8-3-123

GENERAL SUMMARY: In the interest of industrial peace, regular and adequate income for the worker, and uninterrupted production of goods and services, the Labor Peace Act enumerates the organizational and other labor rights of employees, outlines procedures for state-supervised union elections, defines unfair labor practices by employers and workers, prescribes measures for the prevention of such practices, and provides for the arbitration or mediation of labor disputes.

PROVISIONS APPLICABLE TO AGRICULTURE: The Labor Peace Act does not apply to farm and ranch labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE APPLICATORS' ACT

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-10-101 – 35-10-128

RELATED REGULATIONS: 8 Code Colo. Regs. 1203-2

GENERAL SUMMARY: The Pesticide Applicators' Act regulates the commercial application of pesticides, with the aim of preventing unreasonable adverse effects from such products on people and the environment.

SPECIFIC TERMS AND CONDITIONS

LICENSING — In general, it is unlawful for anyone (other than an agricultural producer on the producer's own property, or the employee of such a producer) to use or supervise the use of any restricted-use pesticide without a license or certification issued by the state. Commercial applicators for hire must pay an annual license fee of \$350 at the time of application and renewal.

EXAMINATION — Each applicant for a license or certification as a commercial pesticide applicator must satisfactorily pass a written general examination, as well as a written classification examination for the respective class of license or certification involved. To renew a license without examination, commercial applicators are required to earn continuing education credits in subject areas specified in the regulations.

INSURANCE — Commercial pesticide applicators for hire must obtain and keep in force liability insurance coverage in the minimum amount of \$400,000.

RECORDKEEPING — Applicators are required to keep adequate records with respect to each pesticide application they perform. Among the items to be recorded are (1) the name and address of the person for whom the application was made, (2) the crop or pest involved or other use for which the application was intended, (3) the place treated, (4) the application rate, (5) the pesticide product applied, (6) the dilution rate and whether the pesticide was applied in dust, granular or liquid form, and (7) the date the product was applied.

PROHIBITED ACTS — Among other acts, it is illegal for a commercial pesticide applicator to store, use or supervise the use of a pesticide in a manner inconsistent with labeling directions, or in a fraudulent, faulty, unsafe or negligent manner. Disposal of empty pesticide containers or unused materials negligently or unsafely is similarly prohibited.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056). The Department is authorized to inspect and analyze pesticide products being used anywhere in the state and any equipment utilized to apply such products. This agency has the right to enter public or private property for the purpose of any examination, sampling or inspection necessary to enforce these provisions. If an applicator is applying pesticides in violation of the Act, the Department may issue and enforce a stop-work order. Penalties for violations are limited to court-imposed fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDE APPLICATORS' ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-10-101 - 35-10-128

RELATED REGULATIONS: 8 Code Colo. Regs. § 1203-2-2.14

GENERAL SUMMARY: Under the general rulemaking authority of the Pesticide Applicators' Act, the state agriculture department has adopted licensing provisions specifically applicable to aerial applicators.

SPECIFIC TERMS AND CONDITIONS

Commercial applicators are prohibited from applying pesticides from the air without an endorsement on their license permitting them to do so. As a requirement for obtaining the endorsement, the applicant or licensee must present proof that at least one pilot employed by the applicant holds a commercial agricultural aircraft certificate issued by the Federal Aviation Administration. The licensee is required to notify the state agency whenever there is no longer a certified pilot in its employ, and the licensee must cease aerial pesticide application operations until satisfactory proof of certification of new personnel is furnished to the state agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056). The Department is responsible for the licensing and certification of commercial pesticide applicators in Colorado, including aerial operators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

ANHYDROUS AMMONIA ACT

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-13-101 – 35-10-109

RELATED REGULATIONS: 8 Code Colo. Regs. 1202-5

GENERAL SUMMARY: Article 13 of the Colorado agricultural statutes authorizes the state agriculture department to adopt specific safety standards governing the design, construction, location, installation and operation of equipment for storing, handling, transporting and utilizing anhydrous ammonia as an agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: Farm operators who use ammonia on the farm must comply with the following regulatory requirements established by the state agriculture department under the Anhydrous Ammonia Act.

CONSTRUCTION OF AMMONIA CONTAINERS — All containers used for the transportation, storage or application of anhydrous ammonia, as well as the fittings, valves and other appurtenances connected to such containers, must be built in accordance with detailed specifications prescribed in the regulations, and containers and valves must be properly marked with certain identifying information.

ON-FARM EQUIPMENT — The regulations require that ammonia containers of 3,000-gallon capacity or less that are attached to farm vehicles for transportation to and from the fields must be safely mounted on the vehicle or trailer, and trailers must be securely attached to the vehicle drawing them. Similarly, all containers mounted on farm equipment and used for the application of ammonia to the soil must be securely attached and fitted with a level gauge and certain prescribed valves.

SAFETY EQUIPMENT AND TRAINING — At all places where anhydrous ammonia is handled or transported, there must be on hand at least one pair of tight-fitting goggles or a full-face shield, at least one pair of protective gloves, and a container of not less than 5 gallons of readily available clean water. Personnel required to handle ammonia must be trained in safe operating practices and appropriate procedures in the event of emergencies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection and Consumer Services Division, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-867-9213). This agency has authority to make periodic inspections and respond to complaints in an effort to disclose and correct violations of these provisions. Whenever an infraction or deficiency is not corrected after notice and reasonable time, the agency may seek injunctive relief in state court. The Department may also impose civil penalties of up to \$750 per day per violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

■ MINIMUM WAGE LAW

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-6-101 - 8-6-119; Colo. Const. Art. XVIII, § 15

RELATED REGULATIONS: 7 Code Colo. Regs. 1103-1 (Colorado Minimum Wage Order No. 32)

GENERAL SUMMARY: A ballot initiative approved by Colorado voters in November 2016 raises the existing state minimum wage in four steps between 2017 and 2020, as follows:

Effective January 1, 2017: \$9.30 per hour Effective January 1, 2018: \$10.20 per hour Effective January 1, 2019: \$11.10 per hour Effective January 1, 2020: \$12.00 per hour

Each year thereafter, the existing minimum wage will be adjusted to account for inflation.

Article XVIII, Section 15, of the state constitution extends the applicability of the state minimum wage to any Colorado employee who is covered by the minimum wage provisions of the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage).

PROVISIONS APPLICABLE TO AGRICULTURE: Under the constitutional provision referred to above, only those farmworkers in the state who work in agricultural establishments that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are covered. However, since the federal minimum wage is currently lower than Colorado's current minimum wage, those workers are entitled to receive at least the minimum rate specified above for each hour of work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). Any worker who is entitled to the state minimum wage and who has not been paid accordingly may file a complaint with the Division, which is required to investigate and take action to enforce payment if the charge is determined valid.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative wage claim, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, plus court costs and attorney's fees.

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-6-101 - 8-6-119

GENERAL SUMMARY: Apart from its authority to assess the adequacy of wage rates in Colorado, the state labor department may also investigate hours and other terms of employment in any industry or occupation, and may subsequently establish maximum hours and overtime pay requirements applicable to such employment if the agency (or a wage board convened by the agency) finds existing working conditions inadequate or detrimental to the well-being of the workforce.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state agency has adopted **no standards** regulating hours in agricultural employment or requiring overtime pay for farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-4-101 - 8-4-123

GENERAL SUMMARY: Article 4 of the state labor laws governs the payment of wages by Colorado employers, including farm operators, migratory field labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS

FORM OF PAYMENT — Employers and their agents are prohibited from paying wages in any medium other than cash or direct deposit, unless the check or draft used to pay wages is negotiable and payable immediately in cash, without discount. Earnings may not be paid in scrip or coupons redeemable in merchandise unless this form of pay is also immediately redeemable in cash, without discount.

PAY PERIODS AND PAYDAYS — Unless the employer and employee mutually agree on an alternative schedule, all compensation due (other than final wages at termination) must be paid no later than 10 days following the end of the regular pay period, which may not exceed one month or 30 days' duration, whichever is longer. With respect to agricultural workers for whom the employer furnishes board and lodging, earnings are payable for regular periods not exceeding one month, on paydays no later than 10 days after the close of each pay period.

FINAL WAGES AT TERMINATION — When employment is terminated by the employer, the worker's final wages are due and payable immediately. When an employee quits or resigns, final wages are due and payable on the next regular payday.

PAY STATEMENTS — At least once a month, or at the time of each payment of wages, every employer must provide each employee with an itemized written pay statement showing gross wages earned, all withholding and deductions, net wages earned, inclusive dates of the pay period, the employee's name and Social Security number, and the name and address of the employer.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). It is the duty of this agency to respond to complaints of unpaid wages or other alleged violations of the wage payment laws, and to institute actions to recover unpaid wages and enforce penalties whenever violations are confirmed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Using public or private legal counsel, any worker who fails to receive wages, or who is otherwise aggrieved by an apparent violation of the state wage payment laws, may take civil action against the employer or other party at fault to recover damages. A worker who has filed a wage claim must terminate the Department's enforcement process within 35 days after the issuance of a determination, citation or assessment in the case in order to preserve the right to sue.

• HARVESTERS' LIEN LAW

STATUTORY CITATION: Colo. Rev. Stat. §§ 38-24.5-101 - 38-24.5-108

GENERAL SUMMARY: Article 24.5 of the state property laws provides certain farmworkers with the right to a lien against the crops on which they perform harvest labor in the event of non-payment of wages.

SPECIFIC TERMS AND CONDITIONS

RIGHT TO LIEN — Any person who harvests grain or other crops, manually or by machine, has a lien on the crop or crops involved as compensation for labor whenever the farm operator or landowner fails or refuses to pay the laborer's wages.

ENFORCEMENT OF LIEN — A worker who has not been paid full wages for harvest labor performed for the owner of the crop must, no later than 10 days after the work is finished, notify the owner via certified mail that a lien will be claimed within 20 days. Within those 20 days, the worker must submit a claim to the Secretary of State's office detailing the amount of unpaid wages, the crop or crops involved, the name of the farm owner, and related information; the lien must also be filed with the county clerk and recorder. A civil suit, through private legal counsel or a public legal service provider, may then be brought to enforce the lien, provided the action commences within 3 months from the filing of the lien.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As noted above, these provisions are enforced in the civil courts.

COLORADO INCOME TAX ACT OF 1987

STATUTORY CITATION: Colo. Rev. Stat. §§ 39-22-101 - 39-22-4604

GENERAL SUMMARY: The Colorado Income Tax Act imposes a tax on the income of every individual, estate and trust in the state. The law requires every employer making wage payments to deduct and withhold from each employee's wages an amount calculated to approximate as nearly as possible the worker's income tax liability to the state, and to forward withheld taxes to the state treasury for credit against the worker's liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Like the earnings of most other classes of employees, agricultural workers' wages are subject to withholding of state income tax. Employers must provide each worker with a statement showing the amount of tax deducted at the time of each payment of wages during the year, and on or before January 31 of the following year must furnish the worker with a statement showing the total compensation paid and the tax withheld the preceding year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Taxation Division, Colorado Department of Revenue, Denver, Colorado 80217 (303-238-7378). The Department of Revenue is responsible for enforcing the collection of income tax withholding by employers and for assuring remittance of withheld taxes to the state treasury. Any worker who has reason to believe that taxes deducted from pay are not being properly forwarded and reported to the worker's credit should contact the Department, which will investigate the complaint. Failure to comply fully with income tax withholding and reporting requirements exposes an employer to both civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Connecticut

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Connecticut

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

O STATE LABOR LAWS

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-12 – 31-57w

GENERAL SUMMARY: Part I of the state labor laws contains restrictions on the employment of minors in certain specified occupations, and limits permissible hours of work of minors in certain trades and industries.

PROVISIONS APPLICABLE TO AGRICULTURE: The general child labor restrictions itemized in the state labor laws do not apply to employment in agricultural occupations or workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ AGRICULTURAL CHILD LABOR LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 22-13 - 22-17

GENERAL SUMMARY: Chapter 422 of the state statutes, pertaining to the Department of Agriculture, contains provisions regulating the employment of minors in agriculture.

SPECIFIC TERMS AND CONDITIONS: The following child labor restrictions apply during any calendar week to any farm operator or other agricultural employer who employs an average of more than 15 workers during that week:

AGE AND HOURS — No one under 14 years of age may be employed or permitted to work. Likewise, workers 14 and 15 years old may not be employed for more than 6 days a week, or for more than 8 hours in any day or 48 hours in any week.

PROOF OF AGE — No one under 16 may be employed or permitted to work when school is not in session unless the employer has received a birth certificate, an agricultural work permit issued by the Department of Education, or other legal proof of age.

TRANSPORTATION AND MEAL TIME — If transportation is furnished to the farm or other workplace, minor employees must have return transportation available to their home or pick-up point at the close of each workday. Minors are entitled to a meal period of not less than 30 minutes' duration.

SPECIAL NOTES OR ADVISORIES

ENFORCEMENT IN DOUBT — Although this law is still on the books, and the legislature transferred responsibility for enforcement from the state agriculture commissioner to the state labor commissioner effective January 1, 1979, the Connecticut Department of Labor does not currently enforce the Agricultural Child Labor Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department is authorized to make inspections necessary to assure compliance with these provisions. Penalties for violations, against both the employers who use unlawful child labor and the parents or guardians who permit their children to be unlawfully employed, are limited to civil fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SCHOOL ATTENDANCE AND CHILD EMPLOYMENT LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 10-184 - 10-202f

GENERAL SUMMARY: With few exceptions, each parent or other person having control of a child who is at least 5 years of age but not yet 18 must assure the child's regular attendance at a public day school during the hours and terms that the local public schools are in session, unless the parent or guardian can show that the child is receiving equivalent instruction elsewhere. This law makes no distinctions between farmworkers and non-farmworkers, or between agricultural and non-agricultural employers.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT RESTRICTIONS —Employers are prohibited from employing a child under 14 years of age during the hours when the school the child should be attending is in session.

AGE CERTIFICATES — In the following specific cases, employers wishing to employ anyone under 18 years of age must obtain a certificate from the local school district proving that the minor is:

16 Years of Age or Older — For work in the manufacturing, mechanical or theatrical industry, or in a restaurant, bowling alley, or shoeshine or barber shop.

15 Years of Age or Older — For work in a retail store or other mercantile establishment.

14 Years of Age or Older — For work at a golf course.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The school attendance law is enforced by local boards of education, primarily through attendance officers appointed for that purpose. Attendance officers are authorized to investigate absences and irregular attendance, and to pursue court prosecution of employers who permit children to work in violation of these provisions, as well as prosecution of parents and guardians who fail to assure regular school attendance by children in their custody.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

STATE HUMAN RIGHTS LAWS

STATUTORY CITATION: Conn. Gen. Stat. §§ 46a-51 - 46a-125

GENERAL SUMMARY: The state human rights laws describe certain discriminatory employment practices which are declared unlawful, and establish administrative and judicial procedures for reporting and resolving complaints of discriminatory practices. The fair employment provisions apply to all employers in the state — including farm operators and other agricultural establishments — that employ 3 or more workers.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED EMPLOYMENT PRACTICES — Except in the case of a bona fide occupational qualification or need, it is unlawful for any employer with 3 or more employees to, among other acts, refuse to hire or employ an individual, to bar or discharge an individual from employment, or to discriminate against an individual in compensation or in terms or conditions of employment, because of the individual's race, color, religious creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, or physical disability. Among many other prohibited acts, employers are barred from terminating a woman's employment because of her pregnancy, or refusing to grant her a reasonable leave of absence for disability due to her pregnancy. Employment opportunities generally may not be restrictively advertised so as to discriminate against potential applicants on any of the above-mentioned grounds. Comparable acts of employment discrimination on these grounds by employment agencies and labor organizations are also forbidden.

COMPLAINT PROCEDURE — Anyone claiming to be aggrieved by an alleged discriminatory employment practice may file a written complaint with the enforcement agency. Any such complaint must be filed within 180 days after the alleged act of discrimination occurred. Complaints may be dismissed without investigation by the state agency, but if the agency investigates and finds reasonable cause to believe that a discriminatory practice has been or is being committed, steps must be taken to eliminate the practice through conference, conciliation and persuasion. A formal hearing will be held when such efforts fail, culminating in either (1) a cease-and-desist order and compensatory relief, such as back pay and compensatory damages, or (2) dismissal. A formal hearing will also be held on complaints processed through the agency's early legal intervention program.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for a subject employer, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY — Commission on Human Rights and Opportunities, Hartford, Connecticut 06106 (860-541-3400). The Commission is responsible for receiving and responding to discriminatory practice complaints, and consequently may investigate, hold hearings, subpoena witnesses and documents, and issue compliance orders. Workers who have been adversely affected by a violation of these provisions may file an employment discrimination complaint by contacting the nearest regional office of the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker may obtain a release from the Commission and take legal action against the employer in state court directly if (1) a complaint has been filed with the Commission and is still pending 180 or more days after filing, (2) the worker and employer agree to the release, even if the complaint has been pending less than 180 days, or (3) the worker requests and the Commission completes an expedited case review. The civil action must be filed within 90 days after receipt of the release and generally brought within 2 years after the date the complaint was filed.

WAGE AND HOUR LAWS (WAGE DISCRIMINATION)

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-75 - 31-76

GENERAL SUMMARY: The state wage and hour laws provide that no employer may discriminate in the amount of compensation paid to any employee solely on the basis of sex. Except to the extent that employment practices may recognize length of service or merit rating as a factor in determining wage or salary rates, any difference in pay based on sex is deemed to be discrimination. Workers who believe they have been subjected to sex discrimination in compensation may file a complaint with the enforcement agency, provided the complaint is filed within one year after the alleged violation occurred.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply equally to agricultural and non-agricultural employment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department is authorized to enter places of employment, inspect payrolls, investigate work and operations on which employees are engaged, question employees and take such action as is reasonably necessary to determine compliance with these provisions. On behalf of a worker who has not received full pay due to an apparent act of wage discrimination may file a complaint with the Department, which may take legal action against the employer involved to enforce the claim. Such action generally must commence no later than 2 years after the alleged violation occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a complaint with the state labor department, a worker who has been paid less than the pay to which he or she is entitled because of unlawful wage discrimination may recover the unpaid amount in a civil suit against the employer involved, using a private attorney or a public legal service provider. Under ordinary circumstances, civil action must be filed within 2 years after the alleged violation occurred.

STATE WHISTLEBLOWER LAW

STATUTORY CITATION: Conn. Gen. Stat. § 31-51m

GENERAL SUMMARY: It is illegal for an employer to discharge, discipline or otherwise penalize an employee because the employee, among other things, reports a violation or suspected violation of any state or federal law or regulation to a public body. Likewise, retaliation against an employee for having participated in an investigation, hearing or inquiry requested by a public body is also unlawful.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to virtually all public- and private-sector employers and employees in Connecticut, without regard to industry or occupation.

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After exhausting any available administrative remedies, a worker who is fired or disciplined in any other way in violation of this provision may file a civil action in superior court against the offending employer, using a private attorney or public legal service provider. The action must generally commence no later than 90 days after the violation is alleged to have occurred. If the charge is sustained, the court may order reinstatement to the job, payment of back wages, or restitution of employee benefits to which the worker would otherwise have been entitled if the violation had not occurred. The court may also award reasonable attorney's fees and court costs.

HEALTH AND SAFETY

○ CONNECTICUT OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-367 - 31-385

GENERAL SUMMARY: Connecticut's Occupational Safety and Health Act requires covered employers to furnish their employees with work and a workplace free from recognized hazards that are likely to cause death or serious injury. The state labor commissioner has broad authority to propose and adopt regulations implementing that requirement, and has authority to investigate workplace hazards and related complaints by employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The Connecticut Occupational Safety and Health Act covers state and local governmental agencies only, and thus **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PUBLIC HEALTH CODE (SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS)

STATUTORY CITATION: Conn. Gen. Stat. § 19a-36

RELATED REGULATIONS: Conn. Agencies Regs. §§ 19-13-B53 and 19-13-B54

GENERAL SUMMARY: The state public health laws authorize the Commissioner of Public Health to establish a public health code, to include, among other provisions, field sanitation and safety protections for agricultural workers and migratory farm laborers.

SPECIFIC TERMS AND CONDITIONS: The following standards apply to all agricultural workplaces in the state of Connecticut.

DRINKING WATER — Employers are required to make drinking water readily available to agricultural field and shed workers, in covered containers with sanitary drinking fountains or with individual paper cups. Drinking water must be obtained from a public water supply or from an approved source of ground water. No common drinking cups are allowed.

HANDWASHING FACILITIES — Potable water for handwashing must be available to all field and shed workers.

TOILET FACILITIES — Portable toilets or permanent privies, readily accessible and in adequate numbers, must be provided for the use of agricultural workers. There must be separate, clearly marked facilities for men and women. Each unit must be equipped with an inside-latching door and must be well lighted, ventilated and maintained. Toilet paper must be supplied by the employer.

FIRST AID — Standard first-aid kits must be kept in every shed where work is in progress and must be readily available to shed workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293). In response to a complaint or on its own initiative, representatives of the Department are authorized to inspect worksites to determine if sanitation facilities are being provided as required.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

EMPLOYEE PROTECTION LAWS (LABOR HOUSING)

STATUTORY CITATION: Conn. Gen. Stat. § 31-47

GENERAL SUMMARY: Any person, firm or corporation that maintains or has charge of any structure used as housing for laborers in its employ must, within 72 hours after occupancy by such workers, notify the local health authority in which the structure is located. Within 5 days after notification, the local health authority is required to conduct a sanitation and safety inspection of the premises and may issue an order for appropriate corrective action, or forbid use of the housing altogether, if the housing poses a threat to the health of the occupants. Anyone who violates this provision or fails to comply with an order of a local health authority issued pursuant to this provision is subject to a fine of up to \$100.

PROVISIONS APPLICABLE TO AGRICULTURE: The notification and inspection requirements of this section apply implicitly to agricultural employers.

SPECIAL NOTES OR ADVISORIES

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the temporary labor camp standard enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards), since Connecticut does not have an OSHA-approved job safety and health plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department is responsible for investigating all complaints of violations of the state labor laws, and for reporting violations to appropriate public prosecutors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — City, town and borough health directors or agencies are responsible for conducting the housing inspections required by this provision.

DUBLIC HEALTH CODE (SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS)

STATUTORY CITATION: Conn. Gen. Stat. § 19a-36

RELATED REGULATIONS: Conn. Agencies Regs. §§ 19-13-B55 – 19-13-B63

GENERAL SUMMARY: The state public health laws authorize the Commissioner of Public Health to establish a public health code, to include, among other provisions, field sanitation and safety protections for agricultural workers and migratory farm laborers.

SPECIFIC TERMS AND CONDITIONS: Using the statutory authority referred to above, the health commissioner has adopted migrant labor camp standards, key portions of which are outlined below. Although there is no requirement that such housing be licensed, persons who own or operate facilities used to house migrant agricultural workers must see that the facilities comply with these standards.

GENERAL REQUIREMENTS — Agricultural worker housing must be structurally safe, adequate in size, and reasonably easy to keep clean. Doors, windows and other exterior openings must be properly screened, and there must be adequate lighting and ventilation in living areas.

SLEEPING QUARTERS — Single beds must be furnished for all employees housed, together with blankets, sheets, pillows, pillow cases, and mattresses. Bedding must be kept clean and sanitary by the housing owner or operator.

COOKING AND EATING FACILITIES — Among other furnishings and equipment, kitchens are required to have adequate refrigeration and other food storage space, a cook stove, a work table, and a sink with hot water.

WATER SUPPLY — Water supplied to the housing facility must be obtained from a public water supply or from an approved ground water source. At least 30 gallons of water per day per person must be made available, under pressure.

SEWAGE DISPOSAL — Where no city sewage disposal system is available, all wastewater must be disposed of through a system approved by local health authorities.

TOILET, BATHING, AND LAUNDRY FACILITIES — Toilets, wash basins, showerheads or bathtubs, and laundry tubs must be provided in minimum specified numbers.

TRASH DISPOSAL — Metal cans with tight-fitting lids, or approved alternative facilities, must be provided to allow for storage of trash and garbage for later collection and final disposal. Trash must be hauled away as often as necessary so as not to create a nuisance at the housing site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293). Representatives of the Department may inspect any migrant labor housing facility in the state, either in response to a complaint or on its own initiative, to ascertain if the facility meets state standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state agency may delegate its labor camp inspection authority to local health departments.

AGRICULTURAL WORKER HOUSING LAW

STATUTORY CITATION: Conn. Gen. Stat. § 22-17a

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22-17a-1 – 22-17a-12

GENERAL SUMMARY: Chapter 422 of the Connecticut statutes gives the state labor commissioner authority to promulgate regulations and establish standards covering the sanitation and safety of living quarters furnished to agricultural workers and migratory farm laborers by their employers. The state agency is also authorized to conduct inspections of such housing facilities to ensure compliance.

SPECIFIC TERMS AND CONDITIONS: Although there is no statutory or regulatory requirement that agricultural worker housing be licensed, agricultural employers who provide living quarters to their employees are responsible for assuring that the housing meets the sanitation and safety standards adopted under this provision of the law. Those regulatory standards are identical to those administered by the state health services commissioner under the public health code, outlined in the previous entry.

SPECIAL NOTES OR ADVISORIES

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the temporary labor camp standard enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — General Employee Housing Standards), since Connecticut does not have an OSHA-approved job safety and health plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). On its own initiative or in response to a complaint, the Department is authorized to inspect any housing facility provided to workers by their employer, to determine if the housing meets state standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LANDLORD-TENANT LAWS

STATUTORY CITATION: Conn. Gen. Stat. § 47a-30

GENERAL SUMMARY: The state landlord-tenant laws contain a provision granting farm employees certain rights with respect to employer-provided housing at the time of termination of employment.

SPECIFIC TERMS AND CONDITIONS: When a farmworker occupies a dwelling provided by the worker's employer and does not leave the premises whenever the employment ends or is terminated, the employer must give the worker at least 3 days' notice to leave, on a form prescribed by statute. If the worker fails to vacate the housing within the time period specified in the notice, a summary process action may be brought against the worker. At the summary process hearing, the court may take into account the worker's needs and grant a fair and reasonable stay of execution of eviction, for up to 15 days.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A farmworker who is evicted or faced with imminent removal from an employer-provided housing unit contrary to these provisions may seek redress in civil court, by consulting a private attorney or public legal service provider.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-222 - 31-274j

GENERAL SUMMARY: Chapter 567 of the state statutes establishes an unemployment compensation fund, financed through a tax imposed on employers, out of which weekly cash benefits are paid to covered workers who are involuntarily unemployed. Most Connecticut employers are subject to UI tax if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding year, or (2) employed at least one person for some portion of a day in each of 20 different weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers must pay contributions into the state unemployment compensation fund on behalf of their covered employees if (1) during any calendar quarter in the current or preceding calendar year they paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding year they employed 10 or more workers in agricultural labor. Subject employers are liable for unemployment insurance taxes on the first \$7,100 in cash wages paid to each individual worker. Non-cash compensation such as housing, food or transportation is not considered remuneration for UI tax purposes.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker who applies for benefits and who remains able to work, available for work and actively seeking work is eligible for regular UI benefits if, over the first four of the last five completed calendar quarters prior to the claim, the worker has been paid wages by employers subject to the Act amounting to at least 40 times the total unemployment benefit rate, defined below.

AMOUNT OF BENEFITS — An individual's benefit rate for total unemployment in any week is equal to 1/26 of the average of his or her total earnings during the two quarters of the four-quarter base period in which such wages were highest. The benefit rate generally may range from \$15 up to 60 percent of the average weekly wage for production workers in the state the previous year. A person who is only partially unemployed in any week is generally entitled to receive an amount equal to the total unemployment benefit rate, minus 2/3 the amount of wages earned in that week.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6000). This agency is responsible for determining employers' UI tax liability and for collecting UI contributions from employers subject to taxation. Likewise, this agency processes UI claims filed by unemployed workers and supervises the payment of benefits to eligible claimants. Claims for unemployment benefits can be filed online, at uiclaimsct.force.com/Customers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CONNECTICUT WORKERS' COMPENSATION ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-275 - 31-355b

GENERAL SUMMARY: Under the Workers' Compensation Act, virtually all employers in Connecticut are obligated to pay certain medical costs of employees injured on the job or disabled by an occupational illness, and to compensate such workers or their dependents for the loss of earning capacity caused by the injury or illness, without regard to questions of negligence.

Employers may satisfy this obligation either by securing workers' compensation insurance which meets state-prescribed coverage and benefit standards, or by filing evidence with the state of financial ability to pay compensation directly. In exchange for compulsory protection of their workers against economic loss due to job-related personal injury or death, employers are not liable to any legal action for damages on account of such injury or death. Employers who fail, however, to comply through purchase of workers' compensation insurance or filing proof of self-insurance are subject to a fine, loss of the privilege of doing business in the state, or both such penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers, including farm operators and farm labor contractors, who employ one or more workers are subject to the workers' compensation obligation to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Connecticut Workers' Compensation Commission, Hartford, Connecticut 06106 (860-493-1500). The chairman of the Commission exercises supervision over the entire workers' compensation system. Each of the district commissioners has jurisdiction over all workers' compensation claims and questions which arise in his or her respective workers' compensation district, and each has authority to summon and examine witnesses, subpoena records, and apply to the appropriate state court for enforcement of the law. The commissioners-at-large have equivalent power in districts where they are assigned.

A worker who is injured on the job should notify the employer, who must report the facts of the injury to the Chairman's office within one week. A written notice of a claim for compensation must be filed by the injured worker within one year from the date of the accident which caused the personal injury, or within 3 years from the onset of symptoms of the occupational disease. If death has resulted within 2 years from the date of an accident or onset of symptoms of occupational disease, the dependents or legal representative of the deceased employee may make a claim either within the 2-year period or within one year from the date of death, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-129 - 31-134a

GENERAL SUMMARY: Chapter 564 of the Connecticut statutes regulates the operations of individuals or firms that charge money to find work for people seeking employment, or to find workers for employers seeking employees. This law is broad enough to apply to crew leaders and farm labor contractors.

SPECIFIC TERMS AND CONDITIONS

LICENSING — It is unlawful for anyone in Connecticut to charge a fee to find work for a person seeking employment without first obtaining a license as an employment agency from the state labor department. The annual license fee is \$150. Among the conditions for issuance or renewal of a license, the applicant must:

- (1) Post a bond in the amount of \$7,500 to cover any loss or damage caused by the licensee's failure to comply with these provisions.
- (2) Demonstrate sufficient knowledge of laws and regulations related to employment agencies and employment discrimination.
- (3) Comply with state-prescribed restrictions on the amount and timing of the fees charged.
- (4) Comply with state-imposed recordkeeping requirements.

REGISTRATION — It is unlawful for anyone to charge an employer a fee to provide the employer with workers without first registering with the state labor department. The annual registration fee is \$150.

PENALTIES — Any person who operates an employment agency without obtaining a license to do so is guilty of a Class A misdemeanor. Violation of any other provision of this law is punishable by a fine of up to \$250.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). A worker adversely affected by an employment agency — whether licensed or registered or not — may file a complaint with the Department, which is obligated to conduct a hearing on the complaint and take action to resolve it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

O CONNECTICUT LABOR RELATIONS ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-101 - 31-111b

GENERAL SUMMARY: The Connecticut Labor Relations Act defines the labor rights of employees in the state, describes certain acts prohibited as unfair labor practices, outlines a process for the conduct of representational elections, and creates a state labor relations board to administer and enforce the Act's provisions.

PROVISIONS APPLICABLE TO AGRICULTURE: The Connecticut Labor Relations Act **does not apply** to individuals employed as agricultural workers or to persons engaged in farming.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Connecticut State Board of Labor Relations, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

CONNECTICUT PESTICIDE CONTROL ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 22a-46 - 22a-66x

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22a-49-1 - 22a-65-1

GENERAL SUMMARY: The Connecticut Pesticide Control Act regulates the distribution, sale and use of pesticides in the state. The Act confers broad authority on the state environmental protection department to adopt pesticide standards in several regulatory areas.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Among other illegal practices under the Act, it is unlawful for anyone (1) to use, distribute, sell, transport, deliver or receive any pesticide that is not registered with the state, or any product that has been adulterated or misbranded, (2) to use any registered pesticide in a manner inconsistent with restrictions prescribed under the Act or inconsistent with labeling, or (3) to detach, alter, deface or destroy any pesticide labeling required under the Federal Insecticide, Fungicide, and Rodenticide Act.

REGISTRATION OF PESTICIDE APPLICATION BUSINESSES — No one may operate a pesticide application business without first obtaining a certificate of registration from the state.

CERTIFICATION OF APPLICATORS — It is unlawful for anyone to use or supervise the use of any restricted-use pesticide in Connecticut without a private or commercial certificate issued by the state, unless the use is under the direct supervision of a certified applicator. Before a certificate can be issued, each applicant must pass an examination demonstrating knowledge concerning the proper use of pesticides, the dangers involved, and the precautions to be taken in connection with their application.

APPLICATOR RECORDKEEPING — Private agricultural applicators are required to keep a record of every use of a restricted-use pesticide. The record must include the name of the applicator, the kind and amount of pesticide used, the date and place of application, and the crop and acreage treated. Similarly, application businesses and commercial applicators are obligated to make a record with respect to their use of and supervision of the use of pesticides, including the name and registration number of the commercial supervisor and commercial operator, the kind and amount of pesticide used, the date and place of application, the target pest, and the crop or site treated.

DISPOSAL OF PESTICIDES AND PESTICIDE CONTAINERS — It is illegal for anyone to dispose of a pesticide or pesticide container in such a manner as to endanger plant or animal life or the public health and safety. Pesticides may not be discarded into any public sewage disposal system.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369). The Department is authorized (1) to enter any establishment or other place where pesticides are used, stored, sold or distributed, (2) to observe the application of pesticides, (3) to inspect equipment or devices used to apply pesticides, (4) to request records, and (5) to take other measures to assure the safety of workers and the public at large against the adverse effects of pesticide exposure. The Act prescribes both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CONNECTICUT PESTICIDE CONTROL ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Conn. Gen. Stat. §§ 22a-46 - 22a-66x

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22a-54-1 - 22a-54-3 and 22a-66-7

GENERAL SUMMARY: The Connecticut Pesticide Control Act confers broad authority on the state environmental protection department to adopt pesticide standards, including requirements and restrictions on the application of pesticides by air.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — No one may apply or offer to apply any pesticide or fertilizer by aircraft without first obtaining a certificate from the state authorizing aerial operations. Each applicant must be qualified to fly an aircraft, must pass an examination demonstrating competence to apply pesticides safely and effectively, and must maintain liability insurance coverage of at least \$100,000 for bodily injury (each occurrence) and \$100,000 for property damage (each occurrence).

AERIAL APPLICATION PERMITS — Before any pesticide or fertilizer may be applied to a crop or to land from the air, the owner of the crop or land must obtain a permit from the state. A permit may not be granted until the target area and surrounding property have been inspected and the applicant produces evidence that the material to be applied and the method of application will not harm public health, water, animal life or property.

REGULATORY RESTRICTIONS — No pesticide may be applied from the air to a tract of land less than 10 acres in size, unless the tract is part of a larger parcel of at least 10 acres. Before an aerial spray operation may be undertaken, a written release is generally required from any resident whose property is within 300 feet of the flight path of the airplane to be used, or within 200 feet in the case of application by helicopter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TOXIC SUBSTANCE INFORMATION LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-40j - 31-40p

GENERAL SUMMARY: Chapter 557, Part II of the Connecticut statutes grants employees (implicitly including agricultural workers) a right to certain information regarding toxic substances in the workplace and requires employers to disclose such information to employees on request.

SPECIFIC TERMS AND CONDITIONS: Farm operators and other employers who, in the manufacture of a product or for purposes of treatment, use certain pesticides or other toxic substances identified as air contaminants in U.S. Occupational Safety and Health Administration regulations (29 CFR 1910.1000) must comply with the following information requirements:

POSTING — Employers must post a sign, at a location readily available for viewing by employees, informing the employees of their right to information from their employer regarding the toxic substances used by the employer in the workplace. Employers must annually forward to the state labor department a list of all such toxic substances.

EMPLOYEE REQUESTS FOR INFORMATION — During the first month of employment or within a month after a transfer, any worker or the representative of any worker may submit to his or her employer a written request for, and the employer must in such cases furnish, the following information on toxic substances used by the employer: (1) the generic and chemical name of such substances, (2) the location of the substances to which employees may be exposed, (3) the properties of such substances, (4) the acute and chronic effects of exposure and the associated symptoms, (5) appropriate emergency treatment in case of exposure, (6) proper conditions for safe use of and exposure to the substances, and (7) procedures for cleanup of leaks and spills. All such information must, to the extent practicable, be provided in informal and readily understandable language.

If the employer fails to supply the requested information within 5 working days, the employer is prohibited from requiring the employee to work with the toxic substances involved until the information has been provided.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the hazard communication standard enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication), since Connecticut does not have an OSHA-approved job safety and health plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department must respond to any complaint of a violation of these provisions by conducting an investigation, and must report all confirmed violations to appropriate public prosecuting attorneys. In addition, upon the request of an employer, the Department must provide the employer with all the information concerning the toxic substances used by the employer at the worksite which is available to the Department at the time of the request and which is relevant to the information required to be disclosed to the workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

■ CONNECTICUT MINIMUM WAGE ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-58 - 31-69b

RELATED REGULATIONS: Conn. Agencies Regs. §§ 31-60-1 – 31-60-16

GENERAL SUMMARY: The Connecticut Minimum Wage Act makes it unlawful for any employer subject to the Act to pay less than the state minimum fair wage, which is \$10.10 per hour beginning January 1, 2017. The law provides that whenever the federal minimum wage is increased, the state minimum fair wage must be increased to a level equal to one-half of one percent above the federal floor. The Act also authorizes special rates for minors and certain other special categories of workers.

PROVISIONS APPLICABLE TO AGRICULTURE

ADULT EMPLOYEES — To the same extent as most other classes of workers, adults employed in agricultural labor are entitled to receive at least \$10.10 for every hour of work.

MINORS — Persons between the ages of 14 and 18 employed in agriculture must be paid (1) no less than 85 percent of the state minimum wage, or \$8.59 per hour, when working for an agricultural employer who employed 8 or more workers at any one time during the preceding calendar year, or (2) no less than 70 percent of the state minimum wage, or \$7.07 an hour, when working for an employer who did not employ 8 or more workers at any one time in the preceding year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who believes that he or she has been discharged, disciplined, penalized or otherwise discriminated against by any person in violation of this section may file a complaint with the state labor department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). Any worker who receives less than the applicable minimum wage may file a complaint with the Department, which is authorized to take assignment of the claim and bring legal action against the employer to collect the unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the state labor department, workers may recover unpaid minimum wages through civil court action, utilizing private legal counsel or a public legal service provider.

○ STATE WAGE AND HOUR LAWS (OVERTIME)

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-76b - 31-76j

GENERAL SUMMARY: With certain exceptions, no employer in Connecticut may employ a worker for a workweek longer than 40 hours, unless the worker is paid no less than 1¹/₂ times his or her regular hourly pay rate.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime pay provisions **do not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SUNDAY CLOSING LAW

STATUTORY CITATION: Conn. Gen. Stat. §53-302a

GENERAL SUMMARY: Unless specifically exempted, no person, firm or corporation may engage in work, labor or business — or employ others in work, labor or business — on Sunday. A violation of this provision is classified as an offense against public policy.

PROVISIONS APPLICABLE TO AGRICULTURE: The Sunday closing law **does not apply** to agricultural operations, including nurseries and dairies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by state and local law enforcement agencies, through prosecution in the criminal courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE LABOR LAWS (WAGE STATEMENTS)

STATUTORY CITATION: Conn. Gen. Stat. § 31-13a

GENERAL SUMMARY: Except in the case of an employee with respect to whom the employer is exempt from both recordkeeping and overtime pay requirements under the federal or state minimum wage law, all employers in the state must furnish each employee with a written statement at the time of each wage payment showing hours worked, gross straight-time and overtime earnings, itemized deductions, and net earnings.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as recordkeeping requirements under the state minimum wage law generally apply to agricultural employers to the same extent as to non-agricultural employers, farmworkers are entitled to receive the prescribed record of hours worked, wages earned and deductions at the time of each wage payment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). Workers who do not receive a wage statement at the time of payment in accordance with this provision may file a complaint with the Department, which is responsible for enforcing the state's labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE WAGE PAYMENT LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-71a - 31-71i

RELATED REGULATIONS: Conn. Agencies Regs. §§ 31-60-1 - 31-60-16

GENERAL SUMMARY: These provisions regulate the frequency and format of wage payments in Connecticut and apply to all employers in the state, regardless of industry.

SPECIFIC TERMS AND CONDITIONS

FREQUENCY OF PAYMENTS — Employers must generally pay their employees weekly or bi-weekly, on a regular payday designated in advance. The payday may not be more than 8 days after the end of the period for which the payment is being made; if the regular payday falls on a non-workday, wages must be paid on the preceding workday.

PAYMENT AT TERMINATION — When an employee quits, the employer must pay the employee's wages in full not later than the next regular payday. When an employer terminates an employee, the employer must pay final wages not later than the next business day after termination.

WITHHOLDING PART OF WAGES — Employers are prohibited from withholding or diverting any part of an employee's wages unless (1) the employer is authorized to do so under federal or state law, (2) the employer has written authorization to do so from the employee, or (3) the deductions are for automatic contributions to a federally recognized retirement plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). This agency is empowered to prosecute claims for unpaid wages and to assess the fines applicable to a violation of these provisions. Employers who violate any of these provisions may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the state labor department, workers may recover unpaid wages through civil court action, utilizing private legal counsel or a public legal service provider. In any such action, employees are entitled to recover *twice* the full amount of the unpaid wages, attorney's fees and court costs.

STATE INCOME TAX LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 12-700 - 12-746

RELATED REGULATIONS: Conn. Agencies Regs. §§ 12-705(a)-1 - 12-707-3

GENERAL SUMMARY: These provisions impose a tax on the income of each Connecticut resident, and on non-residents of the state who have income from Connecticut sources. Anyone who maintains an office or transacts business in Connecticut and is considered an employer for federal withholding purposes must register with the state revenue services department and withhold state income tax from wages paid to employees in Connecticut.

Employers are also required to provide to each employee a federal Form W-2, showing the amount of Connecticut wages the employer paid during the calendar year and the amount of state income tax the employer withheld over the same period.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no statutory or regulatory exceptions to the Connecticut income tax withholding requirements applicable to agricultural employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Tax Division, Department of Revenue Services, Hartford, Connecticut 06106 (860-297-5943). This agency is responsible for enforcing the collection of income tax withholding by employers and for assuring remittance of withheld taxes to the state. Any worker who has reason to believe that taxes deducted from pay are not being properly forwarded and reported to the worker's credit should contact the Department, which will investigate the complaint. Failure to comply fully with income tax withholding and reporting requirements exposes an employer to both civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

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Delaware

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CHILD LABOR

O CHILD LABOR LAWS

STATUTORY CITATION: Del. Code Title 6, §§ 501-548

GENERAL SUMMARY: The state child labor laws prescribe minimum ages for child labor in specified occupations and industries, restrict the working hours of minors, and require the use of employment and age certificates as a condition for lawful employment of minors under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than (1) barring the employment of children in occupations declared hazardous to minors by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards), and (2) prohibiting children under the age of 14 from working in fruit and vegetable canneries, the state child labor laws **do not apply** to children employed in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Del. Code Title 14, §§ 2701-2735

GENERAL SUMMARY: Every person in the state having control of a child between the ages of 5 and 16 is generally required to send the child to a free public school in the district where the child's parents reside, for each day of the minimum school term. Compulsory attendance at a public school is not required if it can be demonstrated to the satisfaction of state and local education authorities that a child is elsewhere receiving regular and thorough instruction in the subjects prescribed for the public schools in Delaware, in a manner suitable to children of the same age and stage of development.

PROVISIONS APPLICABLE TO AGRICULTURE: The school attendance law applies to children and their parents or guardians without regard to occupational status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school superintendents, local law enforcement officers, and justices of the peace. Any child under the age of 16 identified by a police officer as being off school property without official authorization may be returned to his or her home school, or detained in police custody for up to 2 hours pending notification of a parent or guardian. If a student is absent from school without a valid excuse for more than one day, the campus principal may take such action as he or she deems appropriate; after a student's 20th day of unexcused absence during the school year, the principal is generally required to file a charge against the parent. Parents or guardians of children who are truant may be prosecuted in justice court and fined or imprisoned upon conviction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

O DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Del. Code Title 19, §§ 710-719A

GENERAL SUMMARY: Delaware's Discrimination in Employment Act makes it unlawful for an employer who is subject to the Act to refuse to hire, to discharge, or to otherwise discriminate against a person with respect to wages or the terms and conditions of employment, because of the person's race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identify, or national origin.

Similar prohibitions against employment discrimination apply to employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: The Discrimination in Employment Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT AND COLLECTION ACT OF THE STATE (EQUAL PAY PROVISION)

STATUTORY CITATION: Del. Code Title 19, §§ 1101–1115

GENERAL SUMMARY: Among related worker protections, the Wage Payment and Collection Act forbids any employer from paying an employee wages at a rate less than the rate paid to an employee of the opposite sex in the same establishment for equal work, on a job whose performance requires equal skill, effort and responsibility, and which is performed under similar working conditions. Generally the only exception is where payment is made pursuant to a differential based on a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to agricultural employers to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200). On application to superior court, the Department is authorized to enter and inspect any workplace where a violation of this law has occurred or is occurring, to examine and copy books and records, to question the employer and any employee, to hold hearings, and to take other steps to enforce compliance. Pay which is withheld from an employee in violation of the prohibition against wage differentials based on sex is treated as unpaid wages, and whenever the Department determines that wages have not been duly paid, the Department may bring legal action against the employer to collect the claim. Civil and criminal penalties may be levied against employers convicted of a violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages under the equal pay provision by filing suit against the employer in civil court, using a private attorney or a public legal service provider.

HEALTH AND SAFETY

O GENERAL LABOR LAWS

STATUTORY CITATION: Del. Code Title 19, §§ 101-117

GENERAL SUMMARY: Chapter 1 of Delaware's labor laws grants authority to the state labor department to adopt and enforce rules for the prevention of accidents and employment-related disease in most occupations and at most workplaces, as well as rules for the construction, repair and maintenance of places of employment necessary to render them safe.

PROVISIONS APPLICABLE TO AGRICULTURE: The administrative authority to promulgate occupational safety and health protections **does not apply** to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ STATE HEALTH AND SAFETY LAWS (FIELD SANITATION)

STATUTORY CITATION: Del. Code Title 16, §122

RELATED REGULATIONS: 16-4447 Del. Admin. Code §§ 1.0-7.5.2

GENERAL SUMMARY: The state Department of Health and Social Services has statutory authority to promulgate regulations for the protection and promotion of public health. Under that authority, the Department has adopted rules requiring certain agricultural employers to provide sanitation facilities to their employees who are engaged in hand-labor operations in the field.

SPECIFIC TERMS AND CONDITIONS: In addition to obtaining a permit from the state authorizing a field sanitation/hand labor operation, agricultural establishments where 11 or more workers on any given day are performing hand-labor operations in the field for more than 3 consecutive hours must provide the workers with drinking water, toilets, and handwashing facilities, as outlined below. Workers must be allowed reasonable opportunities during the workday to use the facilities.

DRINKING WATER — At locations readily accessible to the workers, there must be a supply of suitably cool, sanitary drinking water, dispensed in single-use drinking cups or from fountains. The employer must furnish no less than 6 quarts of water per worker per day.

TOILET AND HANDWASHING FACILITIES — Except when the day's work period is 3 hours or less (including transportation time to and from the field), one toilet and one handwashing facility (including soap and single-use towels) must be provided for every 20 workers or fraction thereof. Sanitation equipment must be within 1/4 mile of each worker's place of work in the field, but if the terrain prevents compliance with the 1/4-mile distance limit, facilities must be placed at the point nearest the workers where entry by vehicle is possible. Toilets and washing equipment must be kept clean and sanitary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220). This agency is responsible for inspecting workplace sanitation facilities, issuing the required permits, and for taking action to enforce compliance with the requirements outlined above. The agency may revoke or refuse to issue a permit if the field sanitation facility is found in violation of the applicable requirements, and employers with serious or repeat violations are subject to fines ranging from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

→ STATE HEALTH AND SAFETY LAWS (MIGRATORY AGRICULTURAL LABOR HOUSING)

STATUTORY CITATION: Del. Code Title 16, §122

RELATED REGULATIONS: Del. Admin. Code 16-4447 §§ 1.0-7.5.2

GENERAL SUMMARY: The state health department has statutory authority to promulgate regulations for the protection and promotion of public health. Under that authority, the department has adopted rules governing construction, facilities and operation of migratory labor camps in Delaware.

SPECIFIC TERMS AND CONDITIONS: Among other requirements detailed in the regulations, migratory agricultural labor housing must meet the following minimum standards:

COVERAGE CONDITIONS — The migratory agricultural labor housing regulations adopted by the state health department generally apply to any structure, trailer or mobile home maintained or used as living quarters for 5 or more migrant farmworkers. Tents are not accepted as living quarters.

INSPECTION AND PERMIT — No one may build, advertise or open a migrant labor camp without a permit issued by the state. An application for a permit must be submitted at least 30 days before the anticipated date of arrival of the occupants. The state agency must inspect the housing before a permit is issued, to determine if the camp meets minimum standards. Permits must be renewed each year.

MINIMUM STANDARDS — A migrant labor camp may not be issued a permit unless the facility complies with detailed quantitative and qualitative standards, main elements of which are summarized as follows.

Sites — The camp must be located on well-drained ground, not subject to flooding or exposed to potential health hazards. There must be adequate nighttime lighting in yard, laundry, shower and toilet areas.

Shelter — Housing structures must be soundly constructed and provide shelter against the elements. The roof and exterior walls must be leakproof.

Heating — If temperatures during normal periods of occupancy fall below 68 degrees F., all living quarters and service rooms must be equipped with operable and properly installed heating equipment capable of maintaining a temperature of at least 68 degrees F. Stoves and heaters that use combustible fuel must be properly vented. Unless powered by electricity, portable heaters are not allowed.

Living Quarters — Camp owners or operators must furnish beds, cots or bunks, each with a clean mattress. Each room used for sleeping purposes must contain at least 50 square feet of floor space for each occupant, and rooms in all permanent structures must have ceilings no less than 7 feet high. There must be adequate ventilation in all living quarters, and all doors, windows and other exterior openings must be properly screened.

Cooking and Eating Accommodations — Both individual family units and congregate food service facilities must be equipped with a stove, refrigerator, food storage space, a table, chairs, and a sink, or their permissible equivalents.

Water Supply — The camp must have an adequate and convenient supply of state-approved water. The water supply must be capable of delivering 35 gallons per person per day.

Toilet and Bathing Facilities — Except in individual family units, there must be separate toilet and shower facilities for each sex. Toilets must be readily accessible, in no case more than 200 feet from each sleeping room. Toilets, wash basins and showers must be provided in prescribed minimum numbers.

Laundry Facilities — Laundry trays, or a combination of laundry trays and washing machines, must be furnished for the use of camp residents, in a ratio of one such facility for every 30 residents.

Lighting — There must be light fixtures and electrical outlets in all habitable rooms.

Solid Waste — The camp operator must provide covered, fly- and rodent-proof containers for the collection of garbage and trash.

Safety and First Aid — There must be a first-aid kit in an easily accessible place.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220). This agency is responsible for processing labor camp permit applications, inspecting camps, and taking action to enforce compliance with the requirements outlined above. The agency may revoke or refuse to issue a permit if the housing facility is found in violation of the applicable requirements, and employers with serious or repeat violations are subject to fines ranging from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Del. Code Title 19, §§ 3301-3392

GENERAL SUMMARY: Declaring economic insecurity due to unemployment a serious menace to the health, morals and welfare of the people of Delaware, the state unemployment compensation law provides for the maintenance of an unemployment compensation fund, from which cash benefits are paid to eligible workers involuntarily unemployed. In general, employers who paid at least \$1,500 in wages in any quarter of the current or preceding year, or employed at least one person in 20 or more different weeks this year or last, are required to pay unemployment insurance taxes on their employees' behalf.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid at least \$20,000 in cash wages for agricultural labor, or (2) employed 10 or more workers in agricultural labor for some portion of a day in at least 20 different calendar weeks during the current or preceding calendar year, must pay contributions to the state unemployment compensation fund. Unemployment insurance taxes, at a rate determined annually for each subject employer, are assessed against the employer for up to the first \$18,500 in wages paid to each employee during the calendar year, depending on the financial condition of the fund.

ELIGIBILITY FOR BENEFITS — In general, a person who is unemployed is eligible for benefits if the state agency determines that the claimant (1) is registered for work, able to work, available for work, and actively seeking work, and (2) has, during the first four of the last five completed calendar quarters preceding the initial claim for benefits, been paid wages equal to at least 36 times the weekly benefit amount, explained below.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is defined as 1/46 of the total wages received by the claimant for covered employment during the two quarters of the four-quarter base period during which such wages were highest. In no case may the weekly benefit amount be less than \$20 or more than \$330. Each eligible individual who is unemployed in any week is entitled to receive for that week a sum equal to his or her weekly benefit amount, minus that part of any wages earned from part-time employment that week which exceeds \$10 or 50 percent of the weekly benefit amount, whichever is greater.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Unemployment Insurance, Delaware Department of Labor, Newark, Delaware 19702 (302-368-6600). This agency is in charge of determining the liability of employers for the payment of UI contributions, and for collecting such contributions from liable employers. The Division also handles UI claims and appeals and supervises the payment of UI benefits. Workers who wish to apply for unemployment compensation may file a claim online, at https://uics.delawareworks.com/Forms/Form_WL1.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Del. Code Title 19, §§ 2301–2397

GENERAL SUMMARY: With few exceptions, the Workers' Compensation Law requires all employers in the state who employ one or more workers to assure the payment of compensation (including cash payments in lieu of wages, medical expenses and related benefits) to their employees who are injured in the course of their employment. Employers may satisfy their liability for compensation by purchasing a prescribed policy of workers' compensation insurance, or by providing the state with proof of their financial ability to pay compensation directly. The state workers' compensation statute limits the liability of subject employers for damages resulting from job-related injury or illness of their employees, while protecting workers against loss of income and other costs of injury or illness incurred on the job, regardless of the question of negligence and without the need to resort to court action.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Workers' Compensation Law **does not apply** to farm laborers or their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Workers' Compensation, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

STATE LABOR LAWS (AGRICULTURAL LABOR CONTRACTORS)

STATUTORY CITATION: Del. Code Title 19, § 1501

GENERAL SUMMARY: Chapter 15 of the state labor laws imposes preconditions on the use of farm labor contractors by certain agricultural employers in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: No employer of migratory or seasonal agricultural labor in Delaware may enter into a contract or agreement with an independent farm labor contractor who engages in interstate recruitment of farm labor without first making reasonable efforts to assure that the contractor is duly registered with the U.S. Department of Labor as a farm labor contractor. Presentation to the employer of a DOL registration certificate, valid on its face, is sufficient to satisfy this requirement.

SPECIAL NOTES OR ADVISORIES

REFERENCE TO REPEALED FEDERAL LAW — The Delaware statute requiring employers of migratory or seasonal farm labor to check the federal registration status of any farm labor contractor with whom they propose to do business refers by name to the registration provisions of the Farm Labor Contractor Registration Act and ties compliance to the registration certificate issued by DOL pursuant to that law. FLCRA was repealed by Congress effective April 14, 1983, supplanted, in effect, by the Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S. — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration). Although not tested to date in the courts, the statutory obligation to verify the registration of contractors under MSPA rather than FLCRA, and the validity of a certificate issued under MSPA's authority for that purpose, are presumed enforceable by the Delaware Department of Labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE LAW

STATUTORY CITATION: Del. Code Title 3, §§ 1201–1240

RELATED REGULATIONS: Del. Admin. Code 3-601 §§ 1.0–22.6

GENERAL SUMMARY: Chapter 12 of the state agricultural statutes regulates the sale, use and application of pesticides in Delaware, by (1) requiring the registration of pesticide products manufactured, sold or used in the state, (2) imposing licensing and certification requirements on commercial pesticide applicators, (3) defining unlawful acts involving the handling and use of pesticides, (4) establishing recordkeeping and reporting responsibilities, and (5) prescribing penalties for violations. The pesticide law also gives the state agriculture department authority to adopt more specific pesticide standards to protect public health and the environment.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION OF COMMERCIAL APPLICATORS — No one may engage in the business of applying pesticides on someone else's land without being licensed to do so by the state. As a condition for receipt of a license, an applicant must be certified by examination as qualified to use the class or classes of pesticides for which certification is requested.

CERTIFICATION OF PRIVATE APPLICATORS — Private agricultural producers who intend to apply any restricted-use pesticide to their own crops must be certified by the state beforehand. Certification as a private applicator requires the producer to demonstrate practical knowledge of the pest problem and pest control practices associated with his or her farm operation and knowledge of the related legal responsibilities.

INSURANCE — The state agency may not certify any commercial agricultural plant pesticide applicator, or license any commercial pesticide application business, until the applicant has filed evidence of financial security. For agricultural and most other categories of pesticide operators, the security requirement may normally be met through purchase of a general liability insurance policy, in the amount of \$300,000 for bodily injury or death and \$100,000 for property damage resulting from the use or misuse of pesticides.

APPLICATOR RECORDKEEPING — Commercial pesticide applicators are required to make a record of each use of pesticides and to retain the record for at least 2 years from the date of application. Among other information, the applicator must record the identity of the formulation used, the dilution at which the product was applied and the per-acre rate of application, the date and specific area treated, the target pest involved, and the wind velocity, temperature and humidity at the site of application if the product label contains precautions regarding drift.

AVAILABILITY OF PRODUCT LABEL — Commercial applicators are required to have available, at the site of application, a copy of the label of the pesticide being used. Upon request, the applicator must provide information contained on the product label to any interested person at or adjacent to the site.

STORAGE AND DISPOSAL OF PESTICIDES — Pesticides must be stored out of the reach of children and in such a manner as to prevent contamination of food, feed or water. Used pesticide containers generally must be drained and triple-rinsed in accordance with state-prescribed procedures and disposed of at a solid waste facility.

PROHIBITED ACTS — Among other things, it is unlawful (1) to apply a restricted-use pesticide without a certified applicator in direct supervision, (2) to detach, alter or deface a pesticide label prior to purchase of the product by the consumer, (3) to refuse or neglect to keep required records, and (4) to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock or wildlife.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticides Management Section, Delaware Department of Agriculture, Dover, Delaware 19901 (302-698-4571). The Department is responsible for licensing and certification of pesticide applicators in the state, and for investigating complaints or suspected cases of pesticide abuse. Any person claiming injury or damage from a pesticide application should file a written report within 60 days of the alleged incident with the Department, which is obligated to investigate the allegations. In addition to civil liability for personal injury or property damage, violators of these provisions are subject to civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ HAZARDOUS CHEMICAL INFORMATION ACT

STATUTORY CITATION: Del. Code Title 16, §§ 2401-2417

GENERAL SUMMARY: The Hazardous Chemical Information Act requires certain employers in Delaware (1) to maintain a list of all hazardous chemicals which are used or stored at the workplace and to which workers may be exposed, (2) to obtain and keep on hand a current material safety data sheet for each such hazardous substance and make data sheets available for the review of any employee requesting to do so, and (3) to provide a related education and training program at least once a year for employees using or handling hazardous chemicals.

New or newly assigned employees must be provided with training before working with or in a work area containing hazardous chemicals. The Act includes an explicit statement of workers' rights, among these the right to be advised of hazardous chemical exposure, the right of access to the employer's workplace chemical list and the respective material safety data sheets, the right to receive safety training, and the right to the Act's protections free from retaliation or discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that agricultural chemicals are regulated in Delaware under the Federal Insecticide, Fungicide, and Rodenticide Act and the state pesticide law, the Hazardous Chemical Information Act *does not apply* to such substances in the workplace of any agricultural employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

○ MINIMUM WAGE ACT OF THE STATE

STATUTORY CITATION: Del. Code Title 19, §§ 901–914

GENERAL SUMMARY: The Minimum Wage Act establishes a state minimum wage, payable to most categories of employees in Delaware. The current state minimum wage is \$8.25 an hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Delaware's minimum wage law **does not apply** to any individual employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT AND COLLECTION ACT OF THE STATE

STATUTORY CITATION: Del. Code Title 19, §§ 1101-1115

RELATED REGULATIONS: Del. Admin. Code 16-1324 §§ 1.0-2.0

GENERAL SUMMARY: The Wage Payment and Collection Act regulates the frequency and method of wage payments in the state and places limitations on the withholding of wages by employers, both agricultural and non-agricultural alike. The Act also authorizes the state labor department to adopt administrative regulations governing wage deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — Employers in Delaware must pay their employees on regular paydays designated in advance, but in no case may paydays be less frequent than once during each calendar month. The end of the pay period for which payment is made on a regular payday may not be more than 7 days before the regular payday. If the regular payday falls on a non-workday, payment must be made on the preceding workday.

METHOD OF PAY — Wages must generally be paid in lawful U.S. money, by check, or by payroll debit card. Use of checks is allowable only if the employer makes suitable arrangements for cashing checks, without discount, at a bank or other business establishment convenient to the workplace, and payment using debit cards is subject to conditions spelled out in state regulations.

TERMINATION PAY — Whenever an employee quits or is laid off or discharged, final wages are due and payable on the next regular payday.

WITHHOLDING OF WAGES — An employer may not withhold or divert any portion of a worker's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for documented health care or medical services, without financial benefit to the employer, or (3) the employer has a signed authorization from the worker for deductions for a lawful purpose accruing to the worker's benefit.

WAGE STATEMENTS AND RECORDKEEPING — Every employer with more than 3 employees is required (1) to notify each employee in writing, at the time of hiring, of the wage rate to be paid and the day, hour and place of payment, and (2) to furnish each employee with a written statement at the time of payment showing the wages earned, the pay period, itemized deductions from earnings, and, for employees paid at an hourly rate, the total number of hours worked. In addition, such employers must safeguard all wage and hour records at their place of business for a period of at least 3 years.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200). On application to superior court, the Department is authorized to enter and inspect any workplace in the state, to examine and copy books and records, to question the employer and any employee, hold hearings, and take other steps to enforce the Act. Workers who have not been paid in accordance with the Act may file a complaint with the Department, which may bring legal action against the employer involved to collect unpaid wages or otherwise enforce compliance. In general, if an employer fails without reasonable grounds to pay an employee's wages as required, the employer is liable to the employee for liquidated damages in addition to the unpaid wages, in the amount of (1) 10 percent of the unpaid wages for each day (except Sundays and legal holidays) on which the failure continues, or (2) an amount equal to the unpaid wages, whichever is smaller.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages by filing suit against the employer in civil court, using a private attorney or a public legal service provider.

STATE INCOME TAX LAW

STATUTORY CITATION: Del. Code Title 30, §§ 1101-1204

GENERAL SUMMARY: Delaware's personal income tax law imposes a tax on the earnings and other forms of taxable income of individuals who reside in the state, or who derive taxable income from sources within the state. The law requires employers who pay any wages subject to federal income tax withholding to deduct and withhold state income taxes from their employees' wages and forward such amounts to the state.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminated before the end of the year — the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Delaware must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Revenue, Delaware Department of Finance, Wilmington, Delaware 19801 (302-577-8779).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Fla. Stat. §§ 450.001-450.165

RELATED REGULATIONS: Fla. Admin. Code R. 61L-2

GENERAL SUMMARY: The child labor law establishes minimum age standards for the employment of minors in Florida, restricts the hours during which employment of most minors is authorized, requires the provision of meal breaks for most employed minors, and prescribes additional measures for the protection of workers under the age of 18.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — As in most other occupational and industrial categories, generally no one under the age of 14 may be employed or permitted to work in agricultural activities.

PROOF OF AGE — Anyone who intends to hire or employ any worker under 18 years of age must first obtain and keep on record during the entire period of employment proof of the worker's age. The range of acceptable documentation is limited to either (1) a photocopy of the worker's birth certificate, (2) a photocopy of the worker's driver's license, (3) an age certificate issued by the school board in the public school district in which the worker is employed, or (4) a photocopy of a passport or visa which shows the worker's date of birth.

HAZARDOUS OCCUPATIONS — In general, no one under the age of 16 may be employed in connection with power-driven farm machinery, and no one under the age of 18 may work in fields where pesticides or herbicides have been applied until the applicable re-entry times have expired. Farmworkers 14 and 15 years of age may drive tractors only under close supervision of the farm operator.

HOURS OF WORK —

Minors age 14 and 15 may not work before 7:00 a.m. or after 7:00 p.m. on days before school days, nor for more than 15 hours in any one week. On school days, they generally may not work more than 3 hours except when there is no school the following day. During holidays and summer vacations, 14- and 15-year-old children may work only between the hours of 7:00 a.m. and 9:00 p.m., for no more than 8 hours in any one day, and for no more than 40 hours in any one week.

Minors age 16 and 17 may not work before 6:30 a.m., after 11:00 p.m., or for more than 8 hours on any day before a school day. When school is in session, 16- and 17-year-olds are limited to working no more than 30 hours in any one week, and they are not permitted to work during school hours without a waiver or other exception. At no time may they work for more than 6 consecutive days in any one week.

MEAL PERIODS — No one 17 years old or younger may work or be allowed to work for more than 4 hours straight without a meal break of at least 30 minutes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Child Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-3131). This agency is responsible for enforcing the state's child labor statutes and regulations, and for investigating complaints of violations. Persons wishing to report an alleged violation may call 800-226-2536. Employers found to have violated the child labor provisions are subject to administrative fines of up to \$2,500 per offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Fla. Stat. §§ 1003.21–1003.29

GENERAL SUMMARY: The compulsory school attendance law provides that, with certain exceptions, all children who have reached the age of 6 years but are not yet 16 are required to attend school regularly during the entire school term. The law makes the parent of a child of mandatory school age responsible for the child's attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to all children in the affected age group, and to their parents or guardians, without respect to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school superintendents or their designees, who are responsible for maintaining pupil accounting records, investigating non-enrollment and unexcused absences, and giving notice to parents or guardians in cases of unexplained non-attendance or absence. School officials are authorized to enter and inspect any establishment where minors may be employed, for the purpose of investigating possible violations of the compulsory attendance law. In each instance of non-enrollment or non-attendance on the part of a child who is required to attend school, when no valid reason for such non-enrollment or absence is found and after written notice to the parent, the superintendent must institute criminal prosecution against the child's parent.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Child Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-3131). School superintendents or their designees are required to report to this agency all apparent violations of the Child Labor Law that come to their attention in the course of enforcing compulsory school attendance.

→ WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Fla. Stat. § 440.54

GENERAL SUMMARY: When a worker injured on the job is found to have been a minor employed in violation of the state child labor law at the time of the injury, the state agency that administers the Workers' Compensation Law is authorized to award up to double the amount of compensation benefits otherwise payable to the injured worker or the worker's beneficiaries. The employer alone, not the insurance carrier, is liable for the increased compensation or death benefits under this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: Consistent with coverage provisions in the Workers' Compensation Law, injured minors unlawfully employed in agriculture at the time of injury are entitled to extra compensation only if they were employed by a farm operator that (1) employs 6 or more regular farm employees, (2) employs 12 or more seasonal farmworkers at any one time, (3) employs any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employs seasonal farmworkers for a cumulative period of more than 45 days in a calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609). This agency is responsible for receiving job injury reports from employers, processing claims for workers' compensation benefits, and assuring the payment of benefits to eligible injured workers or their dependents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

FLORIDA CIVIL RIGHTS ACT OF 1992

STATUTORY CITATION: Fla. Stat. §§ 760.01-760.11 and § 509.092

GENERAL SUMMARY: The Florida Civil Rights Act is intended to eliminate discrimination on grounds of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. Among other provisions, the Act lists certain employment practices which are declared unlawful for employers that employ 15 or more workers in each of 20 or more calendar weeks during the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

To the same extent as in non-agricultural industries, farm operators and other agricultural establishments that employ 15 or more workers for each working day in each of 20 or more calendar weeks in the current or preceding calendar year are generally prohibited from engaging in discriminatory employment practices, including, among others, the following:

- (1) Firing an employee, or failing or refusing to hire a job applicant, because of the individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.
- (2) Discriminating on such grounds against an employee or job applicant with respect to compensation or the terms, conditions or privileges of employment.
- (3) Limiting, segregating or classifying employees or job applicants on the same grounds in any way which would tend to deprive them of employment opportunities or adversely affect their employment status.

(4) Publishing or distributing any advertisement or notice relating to employment which indicates any preference, limitation, specification or discrimination based on race, color, religion, sex, pregnancy, national origin, age, absence of handicap, or marital status.

The law prohibits similar practices by employment agencies and labor organizations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for an employer, employment agency or labor organization to discharge, discipline or discriminate in any manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Florida Commission on Human Relations, Tallahassee, Florida 32399 (850-488-7082; toll-free 800-342-8170). The Commission is responsible for receiving and acting on complaints by workers alleging any discriminatory employment practice defined in the Act. The Commission may investigate and hold hearings on any such complaint to determine the facts, may subpoena witnesses and records, and may provide affirmative relief, including reinstatement, back pay and attorney's fees, to victims of discriminatory employment practices. Any person aggrieved by an unlawful employment practice under the Act may file a complaint with the Commission within 365 days of the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Upon investigation of a complaint, if the Commission determines that there is reasonable cause to believe that a violation of the Act has occurred, the complainant may bring civil action against the employer or other entity directly, using a private attorney or public legal service provider.

GENERAL LABOR REGULATIONS (WAGE DISCRIMINATION)

STATUTORY CITATION: Fla. Stat. § 448.07

GENERAL SUMMARY: No one who employs 2 or more workers in the state may discriminate between employees on the basis of sex by paying wages to any worker at a rate less than the rate the same employer pays employees of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions. When exercised in good faith, a seniority system, a merit system, a pay scale which measures earnings by quantity or quality of production, or a wage differential based on any reasonable factor other than gender, is not considered unlawfully discriminatory.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination provision applies to agricultural employers, and protects agricultural workers, to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

COVERAGE EXCEPTION — This provision does not apply to employers, or to employees of employers, who are subject to the Fair Labor Standards Act of 1938 (see entry, U.S.—Wages & Hours—Minimum Wage).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who believes he or she has been paid less than lawful compensation in violation of this law may file a civil action to recover the unpaid wages, provided the action is commenced within 6 months after termination of employment. Any employer or other person who violates the wage discrimination provision is liable to the employee for the difference between the amount the employee was paid and the amount the employee should have been paid under the statute. The court may also award court costs and reasonable attorney's fees.

WHISTLEBLOWER LAW

STATUTORY CITATION: Fla. Stat. §§ 448.101 - 448.105

GENERAL SUMMARY: Chapter 448 of the Florida statutes includes a provision making it illegal for employers of 10 or more employees to fire, suspend, demote or take any other adverse employment action against a worker for having disclosed, or threatened to disclose, to an appropriate governmental agency an activity, policy or practice of the employer that is in violation of federal, state or local law. It is also unlawful for an employer to take retaliatory personnel action against a worker who has testified or provided information to a governmental agency conducting an investigation, hearing or inquiry into an employer's alleged violation of any law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: Florida's whistleblower provision protects virtually all employees in the state, and applies to virtually all employers with 10 or more employees, without regard to occupation or industry.

SPECIAL NOTES OR ADVISORIES

SUPERVISOR NOTIFICATION — Before a worker may claim damages for disclosing an employer's unlawful activity, policy or practice, the worker must first bring the alleged violation to the attention of a supervisor or the employer, in writing, and give the employer a reasonable opportunity to correct the activity, policy or practice.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has been subjected to retaliation in violation of this law may take action in civil court against the employer involved, using a private attorney or public legal service provider. The suit must be filed within 2 years after the employee discovered that the retaliatory action was taken, or within 4 years after the action was taken, whichever is earlier. If the court rules in the worker's favor, it may order reinstatement of the worker to the job, compensation for lost wages and benefits, and other monetary damages.

HEALTH AND SAFETY

→ PUBLIC HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Fla. Stat. § 381.0086(1)

RELATED REGULATIONS: Fla. Admin. Code R. 64E-14.016

GENERAL SUMMARY: Using rulemaking authority under the state public health laws, the state health department has established regulations requiring agricultural employers to provide their workers with sanitation facilities in the field under certain circumstances.

SPECIFIC TERMS AND CONDITIONS

TOILET AND HANDWASHING FACILITIES — Where 5 to 10 farmworkers are performing hand-labor operations in one location at one time, a field sanitation facility consisting of one toilet and one handwashing unit must be provided for their use. The toilet unit and the handwashing unit must be adjacent to one another and located within a 1/4-mile walk from any worker's place of work in the field. Where the terrain makes it impractical to place the sanitation facilities within that distance limit, they must be located at the point of closest vehicular access.

The toilet unit must have screened ventilation openings and self-closing doors that can be locked from the inside. The handwashing unit must be supplied with potable water, along with soap or other cleanser and single-use hand-drying towels. There must also be a waste container nearby for the used towels.

DRINKING WATER — Potable drinking water must be readily available to the workers. The water must be clean, sanitary, suitably cool and in sufficient amounts, taking into account the air temperature, humidity and the nature of the work performed. Unless bottled water is provided or water is dispensed by means of a fountain, the containers must meet prescribed standards of construction and be supplied with single-use cups; the use of common drinking cups is prohibited.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250). Representatives of this agency, as well as county health department staff, may conduct inspections of field sanitation facilities at random.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

→ PUBLIC HEALTH LAWS (MIGRANT HOUSING)

STATUTORY CITATION: Fla. Stat. §§ 381.008-381.00897

RELATED REGULATIONS: Fla. Admin. Code R. 64E-14

GENERAL SUMMARY: The state public health laws regulate migrant labor camps and residential migrant housing in Florida, by requiring permits for their operation, imposing a schedule of annual fees on migrant labor camp operators, and authorizing the state health department to adopt and enforce rules for the protection of the health and safety of the occupants of such facilities.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No one may establish, maintain or operate a migrant labor camp or residential migrant housing in Florida without first having obtained a permit to do so from the state, and unless the permit is kept posted in the housing to which it applies at all times during its operation.

Migrant Labor Camps — In brief, a migrant labor camp is one or more buildings, structures, barracks or dormitories established, operated or furnished as an incident of employment and used as living quarters for seasonal or migrant farmworkers, whether or not rent is paid for such use.

Residential Migrant Housing — Residential migrant housing is a building, structure, mobile home, barracks or dormitory rented or reserved for occupancy by 5 or more migrant farmworkers, but *does not include* any single-family residence occupied by a single family, or a hotel or motel furnished for transient occupancy.

APPLICATION AND FEES — A person who is planning on operating migrant housing must apply for a permit at least 30 days prior to operation, or at least 45 days prior to construction or renovation. Application fees range from \$125 to \$500, depending on the facility's occupant capacity.

INSPECTION STANDARDS — Before a permit may be issued, a migrant housing facility must be inspected and found in compliance with detailed rules adopted by the state enforcement agency for the protection of the health and safety of the occupants. Some of the key elements of the standards include the following:

Sites — Housing sites must be well-drained and free from standing water. Structures where food is prepared or sleeping quarters are located must be more than 500 feet from any area where livestock is kept.

Buildings and Structures — Housing structures must be weather-tight and provide protection from the elements. Living, sleeping and eating rooms must meet minimum specifications with respect to floor space. Wiring, plumbing, utility connections and appliances must be installed in accordance with applicable state and local codes.

Water Supply — For drinking, cooking, dishwashing and laundry purposes, an approved or permitted supply of potable water under pressure that meets state standards must be available at all times during occupancy. Water heating equipment capable of providing hot water at a minimum 110 degrees F. for bathing and dishwashing is required.

Garbage and Refuse Disposal — There must be cleanable, water-tight garbage or trash receptacles provided, with tight-fitting covers to keep out flies, insects and rodents. Refuse containers must be emptied no less than twice each week

Pesticide Use, Storage and Disposal — Common household pesticides must be stored in a safe place, away from food and out of the reach of children. Agricultural pesticides and other toxic chemicals must be kept in a locked area if children reside in the housing facility. All such products must be disposed of in accordance with label instructions, and empty pesticide containers may not be reused to store any other substance.

Vermin Control — All farmworker housing units must be maintained free of insects and rodents. Openings to the outside must be effectively sealed or screened.

Heating — Living quarters and bathrooms must be equipped with heating devices capable of maintaining a room temperature of 68 degrees F. Non-electrical heating appliances must be properly installed and vented to the outside

Lighting — Lighting fixtures that meet prescribed standards of illumination and location are required in all living quarters, laundry rooms, shower rooms and toilet rooms. Light bulbs must be provided by the housing owner or operator.

Sewage and Liquid Waste Disposal — Approved facilities that meet state regulatory requirements must be provided for the proper disposal of human waste.

Personal Hygiene Facilities — Toilets, urinals, showers, bathtubs, and handwashing and laundry facilities must be provided in certain minimum numbers, depending on the date of construction of the housing and the number of residents housed. Toilet, handwashing and bathing facilities must all be within 200 feet of each sleeping area. Except for individual family units, there must be separate toilet and bathing rooms for each sex. Laundry facilities must include a two-compartment stationary tub or an electric washer and dryer; if on-site laundry facilities are not provided, the housing owner or operator must provide transportation to a laundry facility off premises at least twice a week.

Food Service Facilities — In each individual family unit, there must be a stove, a sink with hot and cold water under pressure, and a refrigerator and freezer capable of maintaining temperatures at or below 41 degrees F. and 0 degrees F., respectively. Comparable facilities are required in shared- or central-cooking areas.

Sleeping Facilities — Each occupant must be provided with a bed, cot or bunk, complete with a clean mattress in good condition. Beds, cots and bunks must be elevated off the floor, leaving at least 36 inches of space between the mattress and the ceiling. Beds must be spaced no less than 36 inches apart.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for the owner or operator of a migrant labor camp or residential migrant housing facility to retaliate against residents or occupants who make complaints in good faith about housing and sanitary conditions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250). The Department's county health units review applications for permits to operate migrant housing facilities in the state, issue permits to qualified applicants, and monitor compliance with the migrant housing rules. Representatives of the county health units may enter and inspect migrant labor camps and dwelling units at reasonable hours and may investigate such facts, conditions and practices as may be necessary or appropriate to determine compliance with the law or the associated rules. The right of entry also extends to any premises which the Department has reason to believe are being maintained or operated as a camp without a permit, provided the agency first secures permission of the owner or obtains a warrant from state circuit court to enter.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PUBLIC HEALTH LAWS (ACCESS TO MIGRANT HOUSING)

STATUTORY CITATION: Fla. Stat. § 381.00897

GENERAL SUMMARY: The provisions in the state public health laws that regulate migrant labor camps and residential migrant housing in Florida include explicit language regarding access rights.

SPECIFIC TERMS AND CONDITIONS

RIGHT OF ACCESS BY INVITED GUESTS — A resident of a migrant labor camp or residential migrant housing (both defined in the preceding entry) may decide who may visit him or her in the resident's private living quarters. No one may prohibit an invited guest from entering or leaving a resident's private living quarters, by erecting any sort of physical barrier or by use of force, violence or threats. An invited guest must, however, leave the private living quarters upon the reasonable request of a resident residing within the same living quarters.

RIGHT OF ACCESS BY OTHERS — No one may prohibit other authorized visitors from entering or leaving the common areas of a migrant housing facility, by erecting any sort of physical barrier or by use of force, violence or threats. However, owners and operators of migrant housing facilities may adopt reasonable rules regulating hours of access, as long as they permit at least 4 hours of access each day during non-working hours Monday through Saturday, and between 12 noon and 8:00 p.m. on Sunday.

OTHER RULES — Migrant housing owners or operators may adopt other rules regulating access, but only if they are reasonably related to the purpose of promoting the safety, welfare or security of the residents, visitors, or the owner or operator's business. However, rules relating to access are not enforceable unless they have been posted at the housing facility, with a copy submitted to the Florida Department of Health.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — A person who has been denied access to a migrant labor camp or residential migrant housing in apparent violation of these provisions may file a complaint in the appropriate court in the county where the housing is located, using a private attorney or public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

REEMPLOYMENT ASSISTANCE PROGRAM LAW

STATUTORY CITATION: Fla. Stat. §§ 443.011-443.221

GENERAL SUMMARY: The Reemployment Assistance Program Law establishes a state unemployment compensation trust fund, financed by a payroll tax levied against employers in the state, for the purpose of providing bi-weekly cash benefits to workers unemployed through no fault of their own. With some exceptions, Florida employers are required to pay into the unemployment compensation fund on their workers' behalf if they (1) paid at least \$1,500 in wages in a calendar quarter of the current or preceding calendar year, or employed at least one person in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments are liable for payment of unemployment insurance taxes in Florida if (1) during any calendar quarter of the current or preceding calendar year they paid at least \$10,000 in cash farm wages, or (2) for some portion of a day in 20 or more different calendar weeks in the current or preceding calendar year they employed 5 or more workers in farm labor. UI contributions are payable with respect to the first \$7,000 in wages paid to each employee on the employer's payroll during the year.

ELIGIBILITY FOR BENEFITS — An unemployed worker is generally eligible to receive unemployment compensation if the state administering agency finds that the claimant (1) is registered for work, able to work, and available for work, (2) has been unemployed for a waiting period of one week, and (3) has, over the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$3,400 and total wages for insured work equal to at least 1.5 times the earnings in the one quarter when earnings were highest.

AMOUNT OF BENEFITS — A worker's weekly benefit amount is defined as 1/26 of the worker's total wages received in the one quarter of the four-quarter base period when wages were highest, but in no case may the benefit amount be less than \$32 or more than \$275. Each eligible worker who is totally unemployed in any week is entitled to receive the weekly benefit amount, while persons partially unemployed during a week of eligibility receive benefits equal to their weekly benefit amount, minus that part of any wages earned that week in excess of 8 times the federal hourly minimum wage.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Reemployment Assistance, Florida Department of Economic Opportunity, Tallahassee, Florida 32399 (800-204-2418). The Department is responsible for receiving and processing claims for unemployment compensation and for adjudicating UI benefit appeals. The Department also makes determinations regarding the liability of employers for payment of UI contributions and handles collection of UI taxes. Claims for unemployment compensation can be submitted online, at connect.myflorida.com/Claimant/Core/Login.ASPX.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATUTORY CITATION: Fla. Stat. §§ 440.01-440.60

GENERAL SUMMARY: Under the Workers' Compensation Law, most private employers in the state who have 4 or more employees are liable for the payment of medical services and supplies, cash disability benefits in lieu of wages, and death benefits to surviving dependents, in the case of any employee who is injured or killed in the course of employment, without regard to the question of negligence. An employer covered by this law may satisfy the obligation to pay compensation by securing a prescribed policy of workers' compensation insurance or through self-insurance. While workers' compensation insurance is not compulsory, a subject employer who fails to pay the required compensation subsequent to a worker's job-related injury, illness or death may not, in a suit brought by the worker or the worker's survivors to recover damages, defend the suit on the grounds that the injury was caused by the negligence of a co-worker, that the worker had assumed the risk of employment, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast to the coverage test for most non-agricultural industries, the Workers' Compensation Law applies only to those farm operators or other agricultural establishments that (1) employ 6 or more regular farm employees, (2) employ 12 or more seasonal farmworkers at any one time, (3) employ any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employ seasonal farmworkers for a cumulative period of more than 45 days in a calendar year. All such agricultural employers are liable for the payment of compensation to injured workers and are subject to all other provisions of the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609). This agency is responsible for receiving job injury reports from employers, processing claims for workers' compensation benefits, and assuring the payment of benefits to eligible injured workers or their dependents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

FARM LABOR CONTRACTOR REGISTRATION LAW

STATUTORY CITATION: Fla. Stat. §§ 450.27-450.39

RELATED REGULATIONS: Fla. Admin. Code R. 61L-1

GENERAL SUMMARY: The Farm Labor Contractor Registration Law controls the business activities of farm labor contractors in Florida, by requiring contractors to register with the state, comply with specified duties and responsibilities, and refrain from certain prohibited acts.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATE OF REGISTRATION — No one, for a fee or other compensation, may recruit, transport into or within the state, supply or hire any farmworker to work for or under the direction of a third party, nor may anyone recruit, transport, supply or hire any farmworker and direct or supervise the worker for a fee or other compensation, until a certificate of registration has been issued by the state permitting the individual to do so and unless the certificate remains in full effect. Unless revoked sooner, a registration certificate is renewable each year on the registrant's birthdate (or the date of incorporation, in the case of a corporate entity acting as a farm labor contractor). The application fee for issuance or renewal of the certificate is currently \$125.

REVOCATION OR SUSPENSION OF CERTIFICATE — The state may revoke, suspend or refuse to renew a certificate of registration when the farm labor contractor has (1) violated or failed to comply with any aspect of the Farm Labor Contractor Registration Law or the rules adopted thereunder, (2) made any misrepresentation or false statement in the application for the certificate, (3) given false or misleading information concerning the terms, conditions or existence of employment to persons recruited or hired to work on a farm, or (4) failed to pay unemployment insurance taxes or federal employment taxes, if required by law.

DUTIES AND RESPONSIBILITIES — Every farm labor contractor in Florida must observe the following requirements, among others:

- (1) Carry the registration certificate at all times and present it to all parties with whom the contractor intends to deal in that capacity.
- (2) Promptly pay or distribute to the individuals entitled thereto all money or other things of value entrusted to the contractor by any third party for that purpose.
- (3) Display at the worksite and on all vehicles used by the contractor to transport workers (a) a copy of the registration certificate, and (b) a statement in English and in the language of the majority of the non-English-speaking employees showing the pay rate the contractor is receiving from the grower for whom the work is being performed and the pay rate the contractor is paying to the workers for their services.
- (4) Secure an insurance policy adequately insuring the contractor against liability for injury or damage arising out of operation or ownership of any vehicle used to transport farmworkers recruited or hired by the contractor.
- (5) Semi-monthly or at the time of each payment of wages, furnish each worker employed by the contractor an itemized written statement showing each and every deduction made from the worker's pay.
- (6) Produce evidence to the enforcement agency that each vehicle used for the transportation of workers (a) complies with the vehicle inspection and maintenance requirements in the Florida Uniform Traffic Laws (see entry, Florida—Transportation—Farmworker Transportation Safety), or (b) bears a valid inspection sticker showing that the vehicle has passed inspection in the state where it is registered.
- (7) On each vehicle used to transport migrant or seasonal farmworkers, display a sticker issued by the state agency, stating that the vehicle is authorized by the agency to transport workers.
- (8) Maintain accurate production and payroll records on each worker, including hours worked, pay rates, units of production, and amounts paid.

GROWER RESPONSIBILITIES — It is unlawful for a farm operator or any other entity to contract with any farm labor contractor for the employment of farmworkers until the contractor presents a current certificate of registration issued by the state.

EXCLUSIONS — The Farm Labor Contractor Registration Law does not apply to farm owners or operators, or to owners or operators of packinghouses or food processing plants who employ workers in planting, cultivating, harvesting or preparing agricultural products for delivery to such packinghouses or food processing plants. The law also exempts from coverage anyone who transports workers solely by means of a carpool.

SPECIAL NOTES OR ADVISORIES

AUTHORIZATION TO ISSUE FEDERAL CERTIFICATES — Under a signed agreement with the U.S. Department of Labor, the Florida Department of Business and Professional Regulation is authorized to receive and process applications for, and to issue, farm labor contractor certificates of registration under the federal Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S.—Labor Contractors & Worker Recruitment—Farm Labor Contractor Registration). The MSPA registration certificates issued by the Florida state agency are entitled to the same recognition in all states as if they had been issued by the U.S. Department of Labor.

RETALIATION — It is illegal for a farm labor contractor to retaliate against anyone who has filed a complaint or aided an investigation under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Farm Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603). This agency is responsible for issuing farm labor contractor registration certificates under the Farm Labor Contractor Registration Law, and for monitoring contractor compliance with the limitations and duties imposed on them by the statute.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

STATE LABOR LAWS (LABOR ORGANIZATIONS)

STATUTORY CITATION: Fla. Stat. §§ 447.01-447.17

GENERAL SUMMARY: Chapter 447 of the state statutes regulates the activities and affairs of labor unions in Florida, affirms the right of workers in the state to self-organization and collective bargaining, upholds the right to strike under certain circumstances, and imposes limitations on union and anti-union activities. Insofar as it is recognized as a bargaining agent by one or more employers doing business in the state, a labor organization which has Florida residents among its membership and which is organized for the purpose of dealing with employers concerning hours of employment, wages, working conditions or worker grievances is subject to regulation, including annual registration and reporting, financial recordkeeping responsibilities, and other requirements and restrictions.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent it is recognized as a bargaining agent by one or more employers, a farm labor union is regarded as a labor organization and regulated to the same degree as a non-agricultural union, whether incorporated or not.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603). The Department is responsible for the registration of labor organizations in the state, and for licensing of union business agents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — The labor rights conferred on employees under these provisions are enforced in the state civil courts. Any worker aggrieved by an apparent violation should consult a private attorney or public legal service provider.

PESTICIDES AND AGRICULTURAL CHEMICALS

FLORIDA PESTICIDE LAW

STATUTORY CITATION: Fla. Stat. §§ 487.011-487.175

RELATED REGULATIONS: Fla. Admin. Code R. 5E-9

GENERAL SUMMARY: The Florida Pesticide Law regulates the use and application of pesticides in the state, for agricultural and other purposes. The Act requires, in part, the annual registration of pesticide products, and the licensing and certification of pesticide applicators and compliance with standards governing their operations.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, it is unlawful for anyone to apply restricted-use pesticides in agricultural operations without a certified applicator's license issued by the state, unless the person is doing so under the direct supervision of a licensee. Certification for each classification of license requires successful completion of an examination evidencing adequate knowledge of the proper use and application of pesticides in each classification for which application for a license is made. Among other subjects, applicants must demonstrate competence as to (1) the proper use of equipment, (2) the environmental hazards involved in applying pesticides, (3) calculating the concentration of pesticides to be used under particular circumstances, (4) protective clothing and respiratory equipment required while handling and applying pesticides, (5) precautions in the disposal of containers, as well as the cleaning and decontamination of equipment, (6) applicable state and federal pesticide laws and regulations, and (7) general safety precautions. Licenses must be renewed and applicators re-certified every 4 years.

GROUNDS FOR DISCIPLINARY ACTION — A warning letter, license probation, license suspension or revocation, or an administrative fine may result from any of the following acts, among others, committed by a licensee: (1) applying pesticides in a manner inconsistent with the product label, (2) operating faulty or unsafe equipment, (3) operating in a faulty, careless or negligent manner so as to cause damage to property or persons, (4) applying any pesticide that is harmful to human beings to fields where individuals are working, (5) failing to disclose to the farm operator, at the time pesticides are applied to a crop, full information regarding potentially harmful effects on humans or animals and safe minimum re-entry times for workers or animals, (6) refusing or neglecting to keep and maintain records or make reports as required, (7) failing to report any known damage to property, or illness or injury to persons, caused by the application of pesticides, and (8) failing to maintain a current liability insurance policy or surety bond.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997). This agency is in charge of examining and licensing pesticide applicators in the state, and monitoring their compliance with the Department's rules implementing the provisions of the law outlined above. Any worker or other person who suffers injury or property damage stemming from application of a pesticide may file a written statement with the enforcement agency. The Department must investigate the alleged injury or damage and notify all concerned parties of its findings. If investigation reveals a violation of the law, the Department will determine an appropriate administrative action, which may include a warning letter, license probation, license suspension or revocation, or an administrative fine. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FLORIDA PESTICIDE LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Fla. Stat. §§ 487.011-487.175

RELATED REGULATIONS: Fla. Admin. Code R. 5E-9.036

GENERAL SUMMARY: Regulations adopted under authority of the Florida Pesticide Law include standards relevant to application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS: Among other provisions spelled out in the regulations, aerial applicators must comply with these requirements:

REGISTRATION — Each aircraft used for aerial application of pesticides must be registered with the state enforcement agency each year.

PROOF OF INSURANCE — The individual or firm applying for registration must deposit a surety bond in the minimum amount of \$100,000 covering damage or injury to people or property as the result of aerial pesticide application by the registered aircraft. As an alternative, the applicant may file a certificate of insurance, verifying insurance coverage of not less than \$100,000 for property damage and \$300,000 for bodily injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997). This agency is in charge of examining and licensing pesticide applicators in the state, and monitoring their compliance with the Department's rules implementing the provisions of the law outlined above. Any worker or other person who suffers injury or property damage stemming from application of a pesticide may file a written statement with the enforcement agency. The Department must investigate the alleged injury or damage and notify all concerned parties of its findings. If investigation reveals a violation of the law, the Department will determine an appropriate administrative action, which may include a warning letter, license probation, license suspension or revocation, or an administrative fine. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

FLORIDA AGRICULTURAL WORKER SAFETY ACT

STATUTORY CITATION: Fla. Stat. §§ 487.2011-487.2071

GENERAL SUMMARY: The Florida Agricultural Worker Safety Act requires agricultural employers in the state to provide certain pesticide safety information to their employees who may enter an area recently treated with an agricultural pesticide or otherwise may be exposed to it.

SPECIFIC TERMS AND CONDITIONS

PESTICIDE INFORMATION — To each worker who enters an area that has been treated with a pesticide within the past 30 days, or where a restricted-entry interval has been or is still in effect, the employer must provide a fact sheet or safety data sheet on the particular pesticide involved. The information must be provided within 2 working days after the worker requests it.

PROHIBITED ACTS — It is illegal for farm employers to fail to provide the required agricultural pesticide information to their workers, or to retaliate in any way against a worker for exercising any right afforded under this law.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A worker who has been fired, disciplined or discriminated against for having requested any information to which he or she is entitled under the Florida Agricultural Worker Safety Act may file a complaint with the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997). The Department has authority to investigate any complaint alleging a violation of this law, provided that the complaint is submitted in writing and signed by the complainant.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

→ FLORIDA UNIFORM TRAFFIC CONTROL LAW (FARM LABOR VEHICLES)

STATUTORY CITATION: Fla. Stat. §§ 316.622 and 316.003(23)

GENERAL SUMMARY: The Florida Uniform Traffic Control Law includes provisions requiring the inspection and maintenance of motor vehicles used by certain carriers of farm laborers.

SPECIFIC TERMS AND CONDITIONS: Except for drivers transporting only themselves or their immediate family, any person who transports or who contracts or arranges for the transportation of 9 or more migrant or seasonal farmworkers to or from their employment by motor vehicle must comply with state requirements for the maintenance and operation of vehicles under their control, summarized as follows.

COMPLIANCE WITH FEDERAL VEHICLE STANDARDS — The owner or operator of any motor vehicle used to transport farmworkers on Florida's public highways must ensure that the vehicle meets all applicable vehicle safety standards prescribed under the Migrant and Seasonal Agricultural Worker Protection Act and the federal motor carrier laws governing the transportation of migrant agricultural workers (see entries, U.S. — Transportation — Farmworker Transportation Safety).

SEAT BELTS — Farm labor vehicles with a gross weight rating of 10,000 pounds or less must be equipped with an approved seat belt assembly at each passenger position and must display a notice requiring passengers to fasten their seat belts.

AUTHORIZATION STICKER — A farm labor contractor is prohibited from transporting migrant or seasonal farmworkers unless the vehicle clearly displays a state-issued sticker authorizing the contractor to do so.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300). The Highway Patrol has authority to enforce all state traffic laws on all streets and highways throughout the state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — County sheriffs' offices and municipal police departments are responsible for and have authority to enforce all state traffic laws on the streets and roadways within their respective jurisdictions.

→ DRIVER LICENSE LAWS (NON-RESIDENTS)

STATUTORY CITATION: Fla. Stat. §§ 322.031 and 316.003(37)

GENERAL SUMMARY: Chapter 322 of the state statutes regulates the licensing of drivers in Florida. With few exceptions, non-residents who accept employment or engage in any trade, profession or occupation in the state, or who enroll their children in the public schools in Florida, must obtain a Florida driver's license within 30 days after the commencement of such employment or education.

PROVISIONS APPLICABLE TO AGRICULTURE: Migrant and seasonal farmworkers (defined as individuals employed in the planting, cultivation or harvest of agricultural crops) who are not legal residents of Florida and who have a valid driver's license issued by another state are not required to obtain a Florida license.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300). The Highway Patrol has authority to enforce all state traffic laws on all streets and highways throughout the state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — County sheriffs' offices and municipal police departments.

● MOTOR VEHICLE LICENSE LAWS (NON-RESIDENTS)

STATUTORY CITATION: Fla. Stat. §§ 320.38 and 316.003(37)

GENERAL SUMMARY: Chapter 320 of the state statutes prescribes the conditions under which motor vehicles operating on the streets and highways of Florida must be licensed or registered. In general, non-residents of the state who accept employment or engage in any trade, profession or occupation in Florida must, within 10 days after commencing such employment, register their motor vehicles in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Migrant and seasonal farmworkers (defined as individuals employed in the planting, cultivation or harvest of agricultural crops) who are not legal residents of Florida and whose vehicles are duly registered or licensed under the laws of some other state are not required to register their motor vehicles in Florida.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300). The Highway Patrol has authority to enforce all state traffic laws on all streets and highways throughout the state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — County sheriffs' offices and municipal police departments.

WAGES AND HOURS

→ FLORIDA MINIMUM WAGE ACT

STATUTORY CITATION: Fla. Const. Art. X, § 24; Fla. Stat. § 448.110

GENERAL SUMMARY: In 2004, the Florida constitution was amended via public initiative to establish a state minimum wage, sufficient to provide a decent and healthy life for all working Floridians and their families. The amendment authorized the state administering agency to adjust the initial minimum wage rate for inflation on September 30 each year, applicable to the subsequent calendar year.

Effective January 1, 2017, Florida's minimum wage is \$8.10 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the Florida minimum wage applies only to workers covered by the minimum wage provisions of the federal Fair Labor Standards Act (see entry, U.S.—Wages & Hours—Minimum Wage), a farmworker's right to receive the state minimum wage applies only if he or she is employed by a farm establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discriminate or retaliate in any way against a worker for filing a complaint under these provisions, or for informing another worker of his or her rights under the Florida Minimum Wage Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *None.* Workers who believe they have been denied their right to receive the state minimum wage must file suit in civil court to enforce compliance, using a private attorney or public legal service provider. Prior to filing suit, however, a worker must notify the employer involved of the intent to sue and identify the minimum wage rate, the dates and hours of work, and the total amount of unpaid wages claimed. A worker who prevails in court is entitled to collect the full amount of unpaid wages, plus an equal amount in damages, plus court costs and attorney's fees. Likewise, an employer found in willful violation is subject to a fine payable to the state in the amount of \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Bureau of Labor Market Statistics, Florida Department of Economic Opportunity, Tallahassee, Florida 32399 (850-245-7205). This agency is responsible for annual adjustment of the state minimum wage rate.

GENERAL LABOR REGULATIONS (LEGAL DAY'S WORK)

STATUTORY CITATION: Fla. Stat. § 448.01

GENERAL SUMMARY: Florida's general labor regulations declare 10 hours of labor to be a legal day's work. In the absence of a written contract signed by the employer and the employee requiring a lesser or greater number of hours to be performed daily, a worker employed to perform manual labor of any kind by the day, week, month or year is considered to have performed a legal day's work when the worker renders 10 hours of labor. Any worker required by the employer to work more than 10 hours in a single day must receive extra pay, unless a written contract to the contrary has been executed.

PROVISIONS APPLICABLE TO AGRICULTURE: As are similarly situated non-agricultural workers, agricultural employees who perform manual labor and are compensated by the day, week, month or year are entitled to receive premium overtime pay for time worked in excess of 10 hours a day, unless specified otherwise in a written contract.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker claiming unpaid overtime compensation must take legal action against the employer through a private attorney or other legal service provider.

Georgia

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Georgia

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Ga. Code §§ 39-2-1 - 39-2-21

RELATED REGULATIONS: Ga. Comp. R. & Regs. § 300-7-2

GENERAL SUMMARY: The state child labor laws establish a minimum age for lawful employment in Georgia, prohibit the employment of minors in hazardous occupations, limit the permissible hours of work of minors, and require the use of employment certificates by minors seeking and holding jobs in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The provision barring employment of children under 12 years of age *does not apply* to employment of minors in agriculture. There is no lower age limit on farmwork in Georgia.

HAZARDOUS OCCUPATIONS — Individuals under age 16 may not be employed or permitted to work in any occupation declared dangerous to life and limb, or injurious to the health or morals of such minors. The state child labor regulations list 17 occupational fields that the labor commissioner has determined will *not* interfere with the schooling, health and well-being of 14- and 15-year-olds; none of the allowable occupations is agriculturally related, which appears to rule out farm employment for any worker under the age of 16.

HOURS OF WORK — Regardless of occupation, no one under the age of 16 may be permitted to work between the hours of 9:00 p.m. and 6:00 a.m., nor may such a person generally be employed during the hours when public or private schools are in session. A child under 16 may not work for more than 4 hours on any day on which the school the child attends is in session, more than 8 hours on non-school days, or more than 40 hours in any one week.

EMPLOYMENT CERTIFICATES — No minor between the ages of 12 and 16 may be employed by any person, firm or corporation unless an employment certificate attesting to the minor's age and physical capacity to work has been issued by a local public or private school official where the minor attends, or by the parent in the case of home schooling. An employment certificate is not explicitly required for the employment of a child under the age of 12 in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Georgia Department of Labor, Atlanta, Georgia 30303 (404-232-3260). The Department has authority to enter and inspect any workplace in the state to assure compliance with the child labor provisions and may take action to prosecute violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Ga. Code §§ 20-2-690 - 20-2-703

GENERAL SUMMARY: With few exceptions, every parent, guardian or other resident of the state who has control or charge of any child between the ages of 6 and 16 must enroll and send the child to a public school, a private school, or a home study program that meets state-prescribed educational requirements.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to children and their parents or guardians without regard to occupational status or classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced by county and independent school system boards of education and their respective superintendents, in cooperation with local peace officers. Any parent, guardian or other person who has control of a child and who fails to assure the child's school attendance as required by law is guilty of a misdemeanor and, upon conviction, is subject to a fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

GEORGIA EQUAL EMPLOYMENT FOR PERSONS WITH DISABILITIES CODE

STATUTORY CITATION: Ga. Code §§ 34-6A-1 – 34-6A-6

GENERAL SUMMARY: This law generally prohibits employers with 15 or more employees from refusing to hire, from firing, or from otherwise discriminating against a person with a disability, with respect to wages, rates of pay, hours or other terms and conditions of employment because of the person's disability. An employer may, however, make job-related inquiries about the existence of the disability of an applicant and may reject the applicant if the disability would interfere with the person's ability to adequately perform assigned job duties.

PROVISIONS APPLICABLE TO AGRICULTURE: The Georgia Equal Employment for Persons with Disabilities Code applies to employers with 15 or more employees, without distinction between agricultural and non-agricultural occupations and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An individual with a disability who has been subjected to employment discrimination on account of his or her disability may file a complaint in civil court against the employer, using a private attorney or public legal service provider. Any such complaint must be filed within 180 days after the alleged incident occurred.

SEX DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ga. Code §§ 34-5-1 - 34-5-7

GENERAL SUMMARY: Chapter 5 of the state labor statutes prohibits discrimination on the basis of sex in hiring, promotion, compensation, and other terms and conditions of employment by most employers in Georgia who employ 10 or more workers.

PROVISIONS APPLICABLE TO AGRICULTURE: The sex discrimination in employment law **does not apply** to agricultural employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Georgia Department of Labor, Atlanta, Georgia 30303.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

GENERAL LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: Ga. Code § 34-1-2

GENERAL SUMMARY: Chapter 1 of the state labor laws includes a provision prohibiting any person, firm or other entity conducting business in Georgia from firing, or refusing to hire, employ or license, any individual between the ages of 40 and 70 solely on the basis of age, when the reasonable demands of the job do not require such an age distinction and the individual is qualified physically and mentally and by training and experience to satisfactorily perform the job. The law provides for exceptions in the case of executive and policy-making positions, and where compulsory retirement systems are not used as a subterfuge to evade the anti-discriminatory intent of the law.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law applies without distinction between agricultural and non-agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A person who has been subjected to age discrimination in violation of this law must seek redress through the state civil courts, using a private attorney or public legal service provider.

HEALTH AND SAFETY

○ GENERAL LABOR LAWS (WORKPLACE SAFETY)

STATUTORY CITATION: Ga. Code §§ 34-2-1 – 34-2-14

GENERAL SUMMARY: Chapter 2 of the state labor laws contains a broad requirement that certain employers — generally those with 8 or more employees — furnish employment reasonably safe for their employees, adopt and use methods and processes reasonably adequate to make the job and workplace safe, and do everything reasonably necessary to protect the life, health, safety and welfare of their employees. Covered employers are subject to a fine, imprisonment, or both such penalties for violation of or refusal to comply with these provisions.

PROVISIONS APPLICABLE TO AGRICULTURE: The general obligation to provide safe employment **does not apply** to agricultural employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Georgia Department of Labor, Atlanta, Georgia 30303. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Ga. Code §§ 34-8-1 - 34-8-280

GENERAL SUMMARY: The Employment Security Law establishes a state unemployment compensation fund, to provide for the payment of cash benefits to workers who are temporarily jobless through no fault of their own. The fund is financed through a payroll tax imposed on most Georgia employers who (1) paid at least \$1,500 in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee in 20 or more different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who (1) paid at least \$20,000 in cash farm wages during any calendar quarter in the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor in 20 or more calendar weeks in the current or preceding calendar year, are required to pay unemployment insurance taxes to the state, at a rate determined annually for each employer. Subject employers are liable for UI contributions with respect to the first \$9,500 in wages paid to each employee during the calendar year.

ELIGIBILITY FOR BENEFITS — A farmworker or any other individual is generally eligible to receive unemployment compensation benefits with respect to any week of unemployment if the claimant (1) has registered for work, is able to work, is available for work, and is actively seeking employment, (2) has, during the first four of the last five completed calendar quarters immediately preceding the claim, received insured wages during 2 or more quarters, and (3) has been paid total insured wages over the four-quarter base period equaling or exceeding 1½ times the amount of insured wages received during the one quarter when wages were highest.

AMOUNT OF BENEFITS — In general, an eligible claimant's weekly benefit amount is computed by dividing the total insured wages received in the highest two quarters of the four-quarter base period by 42, but in no instance may the weekly benefit amount be less than \$44 or more than \$330. The amount of unemployment compensation payable to an eligible claimant in any week is the weekly benefit amount, minus that part of any wages earned that week in excess of \$30.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Georgia Department of Labor, Atlanta, Georgia 30303 (404-232-3180). The Department is responsible for determining liability of employers for UI contributions, and for collecting contributions from subject employers. This agency also receives and processes claims for unemployment compensation filed by unemployed workers, hears and decides appeals regarding UI eligibility and benefits, and administers weekly compensation payments. Claims may be filed in person at any local Georgia Department of Labor career center, or online at dol.georgia.gov/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ga. Code §§ 34-9-1 - 34-9-421

GENERAL SUMMARY: Georgia's workers' compensation law requires employers with 3 or more employees to provide workers' compensation benefits to employees who sustain work-related injuries, or to surviving dependents of employees whose death is caused by an employment-related accident. Workers' compensation benefits may include payment of medical bills, replacement of a portion of lost wages, vocational services and other benefits. An employer's obligation to compensate employees who are injured on the job may be satisfied by purchasing workers' compensation insurance from a state authorized workers' compensation insurer, or by providing the state administering agency with satisfactory proof of the employer's financial ability to pay compensation directly.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employers who voluntarily elect to provide coverage, the state workers' compensation law **does not apply** to farm employers or their workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Board of Workers' Compensation, Atlanta, Georgia 30303. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

GEORGIA PESTICIDE USE AND APPLICATION ACT OF 1976

STATUTORY CITATION: Ga. Code §§ 2-7-90 - 2-7-114

RELATED REGULATIONS: Ga. Comp. R. & Regs. Ch. 40-21

GENERAL SUMMARY: The Georgia Pesticide Use and Application Act establishes licensing requirements, recordkeeping standards, accident reporting responsibilities, and damage or injury complaint procedures, as a means of safeguarding the public against the potentially harmful effects of pesticides that are improperly used or applied.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No individual may purchase, use or supervise the use of any pesticide as a private or commercial applicator unless the individual is licensed by the state to do so, or is acting under the direct supervision of a person so licensed. Private applicators must attend training or pass a written examination before they can be certified. Similarly, issuance of a commercial applicator's license requires the applicant to demonstrate competency to apply pesticides safely, effectively and without any unreasonable adverse environmental effects, and to pay a five-year license fee. Persons who engage in the business of contracting for the application of pesticides must also be licensed, which requires (among other conditions) that they be bonded or insured or post a cash deposit to cover liability for damages as a result of their pesticide operations.

EXEMPTION — The pesticide applicator licensing provisions do not apply to any farmer applying pesticides classified for general use on the farmer's own land, or on neighboring land at the request of the neighboring farm operator.

PROHIBITED ACTS — No one may transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock or wildlife. Operating faulty or unsafe equipment, operating in a faulty, careless or negligent manner, or refusing or neglecting to keep and maintain required records or to make required reports is also illegal and constitutes grounds for suspension or revocation of a pesticide applicator's license.

RECORDKEEPING — Licensed commercial pesticide applicators and licensed pesticide contractors must maintain records with respect to each pesticide application. Such records must be made available to the state enforcement agency on request.

DAMAGE OR INJURY COMPLAINTS — Any person claiming damage or injury from a pesticide application may file a written claim with the state agency, on a form provided by the agency. To be considered timely, the claim must be filed within 60 days after the damage or injury occurs. After investigation, and in the event the investigation discloses that the complaint has merit, the agency will make its findings available to the complainant.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Program, Plant Industry Division, Georgia Department of Agriculture, Atlanta, Georgia 30334 (404-656-4958). The Department is responsible for examining and licensing pesticide applicators in the state, and for monitoring compliance of applicators with the statutory and administrative rules related to pesticide use and application. The Department must also investigate complaints of damages involving agricultural pesticides.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

GEORGIA MINIMUM WAGE LAW

STATUTORY CITATION: Ga. Code §§ 34-4-1 - 34-4-6

GENERAL SUMMARY: The Georgia Minimum Wage Law (1) establishes a minimum wage of \$5.15 an hour, applicable to most classes of employment in the state and generally affecting employers with more than 5 employees or sales exceeding \$40,000 per year, (2) requires subject employers to keep certain payroll records, and (3) gives covered employees a private cause of action for recovery of unpaid wages, an equal amount in liquidated damages, and attorney's fees and court costs.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law **does not apply** to any employer who is a farm owner, sharecropper or land renter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Payment of the state minimum wage may be enforced only through civil action in state court.

GENERAL LABOR LAWS (PAYMENT OF WAGES)

STATUTORY CITATION: Ga. Code § 34-7-2

GENERAL SUMMARY: Most individuals, firms or corporations in Georgia that employ skilled or unskilled wage workers in manual, mechanical or clerical labor must make wage and salary payments in lawful U.S. money, by check, by electronic deposit to an account specified by the employee, or by credit to a payroll card account. Wage and salary payments must be scheduled no less frequently than twice a month.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage payment and payday provisions in the state labor laws **do not** apply to employers engaged in farming.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — These provisions are enforceable only in civil court.

STATE WITHHOLDING TAX LAW

STATUTORY CITATION: Ga. Code §§ 48-7-100 - 48-7-129

GENERAL SUMMARY: With certain exceptions, the state withholding tax law requires employers to deduct and withhold for state income tax purposes a portion of the wages paid to their employees, and to forward withheld taxes to the state for credit against the employees' state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Remuneration paid for agricultural labor is not deemed "wages" under this law, effectively **exempting** agricultural employers and their workers from state income tax withholding requirements.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Georgia Department of Revenue, Atlanta, Georgia 30345.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 390-1 – 390-7

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 12-25-21 - 12-25-83

GENERAL SUMMARY: The state child labor law sets limitations on the occupations and hours in which minors under the age of 18 may be employed in Hawaii, authorizes the use of employment and age certificates by employers who use child labor, and prescribes penalties for violations of the child labor restrictions.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND HOUR RESTRICTIONS —

Minors Under Age 14 — In general, the only agricultural activity for which employment of a child under 14 years of age is authorized is in the harvesting of coffee. Among other restrictions, youth between the ages of 10 and 14 may work in the coffee harvest (1) only when they are not legally required to attend school or have been excused by school authorities from attending school, (2) the state enforcement agency has determined after public hearing that sufficient adult labor to perform the work is unavailable, (3) the employer obtains a valid employment certificate for each such minor employed, and (4) only when they are under the direct supervision of their parent or legal guardian. Children 10 to 14 years of age may work in the coffee harvest only between the hours of 6:00 a.m. and 6:00 p.m., and such minors are not permitted to work for more than 2 hours straight without a rest period of at least 15 minutes, nor for more than 4 hours straight without a meal period of at least one hour. Children under 14 may not work more than 6 hours on any one day or more than 30 hours in any one week, nor for more than 5 consecutive days. Minors under 12 years of age are forbidden to use most harvesting equipment or to carry loads in excess of 15 pounds.

Minors Age 14 and 15 — Children 14 and 15 years of age may be employed only during periods when they are not required by law to attend school or have been officially excused from school, and only when their employer has on file a certificate of employment for each such minor. A 14- or 15-year-old may not work more than 5 continuous hours without a lunch or rest period of at least 30 minutes, nor may such a person be allowed to work for more than 6 consecutive days, more than 40 hours in any one week (18 hours when school is in session), or more than 8 hours in any one day (3 hours on any school day). In general, employment of workers age 14 and 15 is prohibited before 7:00 a.m. and after 7:00 p.m. of any day, except during an authorized school break, when such minors may work between 6:00 a.m. and 9:00 p.m. Under certain conditions, the working hours outlined above may be extended for 15-year-olds, who may be permitted to work in the harvest of pineapples as late as 12:30 a.m. on any day and for up to 48 hours in a single workweek, but only from June 1 through the day before Labor Day.

Minors Age 16 and 17 — Provided the employer records and keeps on file the number of a valid age certificate issued to the minor, a person age 16 or 17 may be employed at any time he or she is not legally required to be in school or has been excused by school authorities from attending.

HAZARDOUS OCCUPATIONS — No one under the age of 18 may be employed or permitted to work in any occupation deemed by the state to be hazardous for minors. The following agricultural or agriculturally related occupations, among others, have been declared hazardous:

- (1) Transporting, transferring or applying anhydrous ammonia.
- (2) Any activity involving the use of restricted pesticides.
- (3) Operating a tractor of over 20 horsepower, or connecting or disconnecting equipment to or from such a tractor.
- (4) Operating or assisting in the operation of a corn picker, feed grinder, forklift, or other such power equipment.
- (5) Working from a ladder or scaffold from a height of over 20 feet.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). The Department is responsible for issuing employment and age certificates applicable to specific minors and specific employers when the employment is consistent with the age and occupational restrictions in the law and, in the Department's judgment, the nature of the employment will not adversely affect the health, safety or well-being of the minor or contribute to the minor's delinquency. Agents of the Department are authorized to enter any workplace in the state, inspect records and interview employees for the purpose of enforcing these provisions. The penalty for violation includes a fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 302A-1132 - 302A-1137

GENERAL SUMMARY: In general, all children in Hawaii who, on or before July 31 of any school year, will have reached the age of 5 or older, and will not have attained the age of 18 by January 1 of that school year, are required to attend either a public or private school during that school year. Any parent, guardian or other person having responsibility for or care of a child whose attendance at school is mandatory must send the child to a public or private school. Among other exceptions, a child who has reached the age of 15 and is suitably employed may be excused from school attendance by the school superintendent or by a family court judge.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to attend school extends to all children in the affected age group, unless otherwise excused, and the corresponding duty of parents and guardians to ensure their children's attendance applies regardless of occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Hawaii State Department of Education, Honolulu, Hawaii 96813 (808-305-9787). Officials of the Department may present a petition, complaint or citation in family court charging a child with persistent absence. In response, the judge of such court may summon the child and the child's parent or guardian before the court, and if evidence confirms that the person responsible for the child has not used proper diligence to enforce the child's regular attendance at school, the responsible party is guilty of a petty misdemeanor. Subject to the plans and policies of the Department, local police officers may also enforce these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

● STATE LABOR LAWS (DISCRIMINATORY PRACTICES)

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-1 - 378-10

GENERAL SUMMARY: Part I of the employment practice provisions in the state labor laws prohibits employment discrimination on the basis of race, sex (including gender identity or expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status, and establishes a process for the receipt and resolution of discrimination complaints by aggrieved employees. These provisions apply to virtually all employers in Hawaii, including farm or plantation operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL PRACTICES — Employers are prohibited from refusing to hire, discharging from employment, or otherwise discriminating against anyone in compensation or in the terms, conditions or privileges of employment, because of race, sex (including gender identity or expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status. Comparable acts of discrimination by employment agencies and labor organizations are also illegal. Employers and employment agencies are forbidden from printing or circulating any statement or advertisement, and from using any form of job application, which expresses or implies any limitation, specification or discrimination on these same grounds.

EQUAL PAY — Employers are prohibited from discriminating between employees because of sex, by paying wages to employees in an establishment at a rate less than the rate at which the same employer pays employees of the opposite sex for equal work on jobs requiring equal skill, effort and responsibility and performed under similar working conditions. Among very few other exceptions, payment differentials resulting from a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a bona fide occupational qualification do not violate this prohibition.

COMPLAINTS — Anyone claiming to be aggrieved by an alleged unlawful discriminatory practice may file a written complaint with the state enforcement agency. The complaint must be filed within 180 days after the alleged practice occurred and must contain the name and address of the employer or other entity alleged to have committed the practice complained of, details of the grievance, and other information prescribed by the state agency. If, after investigation, there is reasonable cause to believe there has been a violation of the law, the agency must attempt to eliminate the alleged practice by informal methods. If the respondent fails or refuses to agree to conciliation, the agency may issue an appropriate order, including hiring, reinstatement, upgrading or other measures, with or without back pay. The state may also exercise its authority to take legal action against the offending party in civil court.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for an employer, employment agency or labor organization to discharge, expel or otherwise discriminate or retaliate against a person because the person has filed a complaint, testified or assisted in any proceeding under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Hawaii Civil Rights Commission, Honolulu, Hawaii 96813 (808-586-8636). The Commission has authority to receive, investigate and conciliate complaints of unlawful employment discrimination, and to examine records, documents and other material evidence and take other steps relevant to determining whether or not a violation has occurred. The Commission may order appropriate legal action when a violation is found.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — On request to the Commission, any worker who has been subjected to employment discrimination contrary to these provisions has the right to sue the employer or other party alleged to be responsible for the violation in a private civil action.

■ WAGE AND HOUR LAW (WAGE DISCRIMINATION)

STATUTORY CITATION: Haw. Rev. Stat. § 387-4

GENERAL SUMMARY: Among its other purposes, the state wage and hour law prohibits certain employers in Hawaii from discriminating in the payment of wages on the basis of race, religion or sex. A wage variation among employees engaged in the same classification of work is not unlawful if it is based on a difference in seniority, length of service, substantial difference in duties or services performed, difference in the shift or time of day worked, or hours of work.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURE GENERALLY — Except in the harvesting of coffee, workers employed in agriculture for any workweek in which the employer has 20 or more employees are protected by the wage discrimination provision, and employers of such workers are required to abide by its terms.

COFFEE HARVESTING — The wage discrimination in employment provision *does not apply* to agricultural workers engaged in the harvesting of coffee.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). Complaints of wage discrimination under the wage and hour law may be filed with the nearest district office of the Department, which is responsible for investigating all such claims. The agency may seek injunctive action against any subject employer in state court to enforce compliance with the anti-discrimination provision. Likewise, at the request of any person paid less than the amount to which he or she is entitled under this provision, the Department may bring legal action against the employer on the worker's behalf to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A claim for unpaid wages resulting from an act of unlawful wage discrimination may be pursued against the employer directly, in a civil suit filed by the worker through a private attorney or public legal service provider.

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-61 – 378-69

GENERAL SUMMARY: Virtually all public and private employers in Hawaii are prohibited from firing, threatening or otherwise discriminating against an employee with regard to the terms and conditions of employment, because the employee or a person acting on the employee's behalf reports or plans on reporting a violation or suspected violation of a federal, state or local law. It is also illegal for an employer to discriminate against an employee on grounds that the employee is requested to participate in an investigation, hearing or inquiry held by a public body or court of law.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural employers and workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — As noted below, this law is enforced in civil court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who alleges a violation of the Act may bring civil action for damages or other relief, using a private attorney or public legal service provider; such an action must be filed within 2 years after the alleged violation occurred. If the charge is sustained, the court may order reinstatement of the worker, payment of back wages, reinstatement of benefits, actual damages, or any combination of these remedies, plus court costs and attorney's fees. Employers found in violation are also subject to civil money penalties ranging from \$500 to \$5,000 for each violation.

STATE LABOR LAWS (UNLAWFUL SUSPENSION OR DISCHARGE)

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-31 - 378-38

GENERAL SUMMARY: Part III of the employment practice provisions in the state labor laws makes it unlawful, among other prohibited acts, for employers to suspend, discharge or discriminate against an employee solely because the employee has suffered a work-related injury covered by the state workers' compensation law, unless the employee is no longer capable of performing his or her normal job due to the injury and the employer has no other work which the employee is capable of performing. Any worker who is discharged because of work-related injury must be given first preference for re-employment by the employer in any position which the worker is capable of performing and which becomes available after the discharge or until the worker secures new employment.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural employers and workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). An employee aggrieved by alleged unlawful suspension, discharge or discrimination related to a work-related injury may file a written complaint with the nearest district office of the Department. In most cases, the complaint must be filed within 30 days after the alleged incident took place. On notice to the parties and in the event of a formal finding that the allegation is valid, the Department may order reinstatement of the employee with or without back pay, or may order payment of back pay without reinstatement.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-208-1

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law requires employers, with few exceptions, to furnish their employees with a job and workplace that are safe and free from recognized hazards, and employers must utilize such equipment and adopt such practices as are necessary to meet this general requirement. The law also imposes employer recordkeeping duties, spells out the safety-related rights and responsibilities of workers, and gives the enforcement agency broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Hawaii's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). In addition to its rulemaking functions, the Department is responsible for conducting inspections and investigations necessary to enforce compliance. Acting in response to a complaint or on their own initiative, representatives of the Department have the right to enter any place of employment at reasonable times, to inspect workplace equipment and facilities, to inspect books and records, to question the employer and any employee, and take other steps to assure adequate protection of the life, safety and health of the workers.

The Department may also investigate the cause of all work-related injuries that result in disability or death, and may make reasonable orders and recommendations with respect to the cause.

The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (FIELD SANITATION)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-208-1

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state agency has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Hawaii's field sanitation standards are comparable to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to provide required sanitation facilities to field workers. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Hawaii's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to comply with the temporary labor camp standards. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

→ HAWAII EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 383-1 - 383-176

GENERAL SUMMARY: The Hawaii Employment Security Law protects most workers in the state against economic hardship during periods of involuntary joblessness, by authorizing the payment of unemployment insurance benefits to persons who lose their job and maintain an active search for new employment. Most employers in Hawaii who have at least one employee are required to pay contributions to the state unemployment compensation fund, from which weekly UI benefits are paid to eligible unemployed workers.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers in Hawaii who (1) during any calendar quarter in either the current or preceding calendar year paid at least \$20,000 in cash wages for agricultural labor, or (2) in either the current or preceding calendar year used agricultural labor in 20 or more calendar weeks, or used at least 10 workers in agricultural labor in any one calendar week, are required to pay contributions to the state unemployment compensation fund on behalf of their workers. With respect to each worker employed during the year, subject employers are liable for unemployment insurance taxes on the worker's wages not exceeding the average annual wage for all covered employment in the state over the four-quarter period ending June 30 of the preceding year.

ELIGIBILITY FOR BENEFITS — As a general rule, an unemployed individual is eligible to receive UI benefits with respect to any week only if the state administering agency finds that the claimant (1) has registered for work at the state employment office, (2) is able to work and available for work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately prior to the claim, received wages for insured work amounting to at least 26 times the claimant's weekly benefit amount, defined below, and has earnings from insured work during at least two quarters of that four-quarter period.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is a sum equal to 1/21 of the individual's total wages for insured work paid during the one calendar quarter in the four-quarter base period in which total wages were highest. The actual amount of benefits payable to an eligible UI recipient in a particular week is the worker's weekly benefit amount, minus whatever wages the worker may have earned that week in excess of \$150.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8913). The UI Division is responsible for determining the Employment Security Law's coverage of individual employers in the state and for collecting unemployment insurance contributions from those employers found subject to taxation. This agency also administers UI benefits under the law, and in that role accepts and processes claims, adjudicates appeals, and supervises the payment of benefits. Claims for unemployment compensation may be filed at any local UI claims office, or online at uiclaims.hawaii.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 386-1 - 386-214

GENERAL SUMMARY: The state workers' compensation law provides for the payment of medical care and rehabilitation costs, as well as income benefits for disability or death, whenever an employee suffers personal injury either by accident in the course of employment or by disease caused by or resulting from the nature of the employment. Legal liability for payment of such compensation rests exclusively with the employer, who may meet this obligation by (1) securing and maintaining in effect a prescribed workers' compensation insurance policy, (2) depositing with the state satisfactory security guaranteeing payment of compensation in case of injury to employees, (3) furnishing proof, satisfactory to the state administering agency, of the employer's financial ability to pay the required compensation, or (4) providing proof of membership in a workers' compensation self-insurance group. Employers who secure compensation are protected against all other liability stemming from an employee's injury. On the other hand, an employer who fails to comply with one of the four workers' compensation coverage options is subject to administrative penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law generally applies to all agricultural employers and protects all agricultural workers, to the same degree as employers and workers in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for any employer to suspend or discharge any employee solely because the employee suffers a work injury compensable under this law, unless the employer presents convincing proof that the employee will no longer be able to perform the duties of the job as a result of the injury and that the employer has no other available work which the employee is capable of performing. Any worker who is suspended or discharged because of such a work injury must be given first preference for re-employment by the employer in any position the worker is capable of performing and which becomes available at any time before the worker secures new employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200). The Department has authority to investigate an employer's liability for workers' compensation coverage and to compel the employer to secure compensation where compliance cannot be documented. In general, the agency may accept a claim for compensation benefits from any worker, or the worker's surviving dependents, within 2 years after the date when the effects of the injury involved become evident, and within 5 years after the date of the accident or occurrence which caused the injury.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Insurance Division, Department of Commerce and Consumer Affairs, Honolulu, Hawaii 96811 (808-586-2790). The state Insurance Commissioner is responsible for issuing certificates of approval to entities that meet the qualifications for self-insurance groups as prescribed in the workers' compensation law. The Commissioner has authority to order any person or business found in violation of the law to cease the unlawful practice involved, and in such cases may also impose monetary penalties and revoke the person or firm's certificate of approval or insurance license.

HAWAII TEMPORARY DISABILITY INSURANCE LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 392-1 - 392-101

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 12-11-1 - 12-11-86

GENERAL SUMMARY: The Hawaii Temporary Disability Insurance Law requires most employers in the state to secure temporary disability benefits for their employees in the event of disability resulting from non-occupational illness or injury. Such coverage, the cost of which may be shared equally by the employer and the employee, may be provided through (1) a state-approved standard disability insurance policy, (2) a state-approved self-insured plan backed by a bond, security deposit, or proof of the employer's financial ability to pay disability benefits directly, or (3) a state-approved comparable disability insurance plan or other agreement with an insurer.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employees in other non-excluded occupations and industries, agricultural workers in Hawaii are entitled to, and may be required to contribute to the cost of providing, temporary disability insurance coverage in connection with their employment.

EMPLOYER AND WORKER CONTRIBUTIONS — To finance the cost of providing temporary disability insurance benefits to the workforce, an employer may deduct and withhold from the workers' wages up to one-half the cost of coverage, provided the cost to the worker does not exceed an annually updated cap set by the state (\$5.12 per week in 2017); the employer must cover the balance of the cost over the amount of the employees' contributions. In general, workers who, during the 52 weeks immediately preceding the payroll period, earned less than \$400 and worked less than 14 weeks for 20 or more hours each are not subject to withholding.

ELIGIBILITY FOR BENEFITS — In general, an individual is eligible to receive temporary disability benefits if the individual (1) is unable to perform the normal duties of the job due to sickness, pregnancy, termination of pregnancy, donation of a bodily organ, or an accident other than a work-related injury, (2) is under the care of a licensed medical or other health care practitioner who has certified the claimant's disability, and (3) has been in covered employment in Hawaii for at least 14 weeks, during each of which the individual has received remuneration for 20 or more hours, and has earned at least \$400 during the 52 weeks immediately preceding the first day of disability.

AMOUNT OF BENEFITS — The weekly amount of disability benefits is generally equal to 58 percent of the disabled employee's average weekly wage (or 100 percent of the worker's average weekly wage, up to a limit of \$14, if such wage is less than \$26). For the purpose of computing the weekly benefit amount, the average weekly wage is based on the wages the employee would receive from the employer except for the employee's disability. After a waiting period of 7 days, benefits are payable for up to 26 weeks for any period of disability or during any benefit year.

CLAIMS — Any employee who becomes disabled by a condition not connected with or resulting from employment and who wishes to apply for temporary disability benefits must submit a claim to the employer, on a state-prescribed form, within 90 days after commencement of the disability; the claim must include a physician's signed certification of disability. The first payment of benefits must occur within 10 days (exclusive of Saturdays, Sundays and holidays) after the filing of required proof of the claim. If the employer fails without good cause to initiate benefit payments within the 10-day timeframe, the employer or insurer must pay normal benefits plus an additional 10 percent of the benefits due and payable to the employee.

SPECIAL NOTES OR ADVISORIES

SPECIAL CLAIMS PROCEDURES — For employees who become disabled while unemployed and as a consequence of their disability become ineligible for unemployment insurance benefits, as well as for eligible disabled employees of employers in bankruptcy, the Department administers a special fund for disability benefits, financed largely through periodic assessments against disability insurers and employers. Disability benefit claims by workers under these special circumstances may be filed with the Department through any local office of the Disability Compensation Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9188). The Department has supervisory responsibility over collection of disability insurance contributions from employees and provision of benefits by employers. Any employee who is denied disability benefits by an employer or an employer's insurer may appeal the denial to the Department, which must hold a hearing and issue a determination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ HAWAII PREPAID HEALTH CARE ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 393-1 - 393-48

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 12-12-1 – 12-12-76

GENERAL SUMMARY: The Hawaii Prepaid Health Care Act requires most employers in the state to provide coverage by a prepaid group health care plan to each regular employee to whom they pay monthly wages amounting to at least 86.67 times the state minimum hourly wage (the equivalent of \$802 a month, at the current minimum wage of \$9.25). Such regular employees (defined as non-seasonal workers employed by a non-seasonal employer for at least 20 hours a week) are entitled to health care coverage which includes, at a minimum, in-patient and out-patient hospital care, surgical services, physicians' visits, diagnostic laboratory and X-ray services, and maternity benefits. Employers are required to contribute no less than one-half the total cost of providing prepaid health insurance, and may withhold up to 1.5 percent of each covered employee's wages to finance the balance.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they are employed in non-seasonal positions for at least 20 hours a week and receive at least \$802 a month in wages from their employer, agricultural workers are entitled to the insurance protections of the Prepaid Health Care Act to the same extent as non-agricultural workers.

Exceptions — Regulations adopted by the state labor department currently exempt only three categories of seasonal employment, and only during their seasonal periods: (1) cultivating, harvesting and processing of coffee, (2) cultivating, harvesting and processing of macadamia nuts, and (3) cultivating, harvesting, processing, canning and warehousing of pineapples.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200). The Department is responsible for judging the adequacy of group health care plans selected by individual employers in the state, for monitoring the payment of premiums by employers and the associated withholding of workers' wages as contributions toward those costs, and for assuring the payment of benefits and other aspects of compliance by prepaid health care plan contractors. Employers who fail to comply with any provision of the Act are subject to a fine and loss of the right to do business in the state. Likewise, non-compliance by health care plan contractors may lead to a fine of \$200 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

COMMERCIAL EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 373-1 - 373-21

GENERAL SUMMARY: Chapter 373 of the state statutes regulates the business practices of employment agencies in Hawaii, which may encompass the recruitment and hiring activities of farm labor contractors or crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No individual, association, partnership or company may, for a fee or other compensation, engage in the business of providing employment information, procuring jobs for workers, or procuring workers for employers, without obtaining a license to do so from the state. Granting of a license is conditioned on the applicant's payment of a biennial license fee, posting of a \$5,000 bond, and successful completion of an examination covering such topics as recruitment procedures, business law and employment agency regulations.

FEES FOR SERVICES — Labor contractors and other employment agents may not charge or collect any registration fee or advance payment for job-finding services.

UNLAWFUL PRACTICES — Licensed employment agencies and their agents and employees are prohibited from committing or engaging in any of the following acts, among numerous others:

- (1) Printing, publishing or circulating false or misleading information concerning the availability of employment, wages, hours or other job conditions.
- (2) Requiring an employer to withhold from a worker's earnings any fee or service charge for the contractor or employment agency, unless the worker has authorized such withholding in writing.
- (3) Recruiting for or referring workers to any job where a strike, walkout or other labor dispute exists without advising the worker of the situation in writing beforehand.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Department of Commerce and Consumer Affairs, Honolulu, Hawaii 96813 (808-587-4272). This agency is responsible for examining and licensing employment agencies in the state, and for enforcing compliance with the restrictions and duties imposed on employment agencies by these provisions. Authorized representatives of the Department may enter any place where an employment agency is operated and may inspect and copy books, contracts and other records related to its operation. Failure by a licensee to comply with the employment agency law may lead to suspension or revocation of the license and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

• HAWAII EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 377-1 - 377-18

GENERAL SUMMARY: The Hawaii Employment Relations Act (1) affirms the right of most employees in the state to self-organization and collective bargaining, (2) establishes a state-administered process for determining bargaining units and conducting union representation elections (3) defines unfair labor practices by employers and employees, (4) imposes certain recordkeeping responsibilities on labor organizations, and (5) outlines other rights, restrictions and procedures applicable to workers, employers and labor organizations. In general, the Act applies to individuals employed by any employer with 2 or more employees, including those performing agricultural labor or services.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Farmworkers and other covered employees in Hawaii have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Such employees also have the right to refrain from any and all such activities, but employees may be required to join a union under an all-union agreement.

ELECTIONS — Whenever a question arises concerning representation of employees in a collective bargaining unit, the state agency administering the Act must arrange for and supervise a secret-ballot election and certify the results. The ballot must normally include the names of all potential representatives submitted by any employee or group of employees participating in the election, but the ballot must be prepared so as to permit any worker wishing to do so to vote against representation by any party named on the ballot.

REPRESENTATION — Representatives chosen for purposes of collective bargaining by a majority of the employees in a particular bargaining unit are the exclusive representatives of all the workers in the unit for bargaining purposes, but any worker or any minority group of workers in the unit has the right to present grievances to the employer in person or through representatives of their own choosing.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is unlawful for any employer (1) to interfere with, restrain or coerce its employees in the exercise of the rights mentioned above, (2) to interfere with the administration of a labor organization, or contribute financial support to it, (3) to encourage or discourage union membership by discriminating in hiring, tenure or other terms or conditions of employment, (4) to refuse to bargain in good faith with the representative of a majority of its employees, and (5) to violate the terms of a collective bargaining agreement.

UNFAIR LABOR PRACTICES BY EMPLOYEES — Among other acts, it is unlawful for an employee or group of employees (1) to coerce or intimidate any other worker in the enjoyment of the worker's legal rights, (2) to violate the terms of a collective bargaining agreement, (3) to refuse to accept the final determination of the state administering agency with respect to any issue in controversy, and (4) to engage in an unauthorized strike or picketing.

STRIKE NOTICE — In any instance where a strike by employees of a producer, harvester or processor of any agricultural product produced in the state would tend to cause the destruction or serious deterioration of the product, the employees must give the state agency at least 10 days' notice of their intention to strike. The agency is required to advise the employer immediately of such notice.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Hawaii Labor Relations Board, Honolulu, Hawaii 96813 (808-586-8610). The Board has authority to hold hearings for the purpose of determining appropriate collective bargaining units and to order and supervise union representation elections. The Board is responsible for investigating unfair labor practice charges filed by any party in interest, for issuing orders or decisions in response to such charges, and for petitioning the state courts, when necessary, to enforce such orders or decisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

HAWAII PESTICIDES LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 149A-1 - 149A-53

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 4-66-1 - 4-66-67

GENERAL SUMMARY: The Hawaii Pesticides Law regulates the sale and use of pesticides in the state, enumerates certain prohibited acts involving the use and application of pesticides, and authorizes the state agriculture department to adopt specific rules covering, among other matters, certification of pesticide applicators, recordkeeping and reporting.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Among other specified offenses, it is unlawful for anyone in Hawaii (1) to use any licensed pesticide in a manner inconsistent with its label, (2) to use, store, transport or discard any pesticide or pesticide container in any manner which would have an unreasonable adverse effect on the environment, and (3) to use or apply restricted-use pesticides unless the user is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator, with a valid certificate issued by the state.

CERTIFICATION OF APPLICATORS — No one may apply any restricted-use pesticide in Hawaii without being certified by the state as a commercial or private pesticide applicator or without direct supervision by a certified applicator. Commercial certification requires, in part, that the applicant pass a written examination demonstrating knowledge of pesticide product labeling, pesticide toxicity, effective measures for preventing overexposure and injury, pesticide application equipment, application techniques, state and federal pesticide laws and regulations, and other subject matter. Similarly, private agricultural applicators must demonstrate an understanding of product labeling, agricultural pests, appropriate application equipment and methods, safety precautions, pesticide poisoning symptoms, and pesticide disposal methods.

APPLICATOR RECORDKEEPING — Commercial applicators are required to keep a record of every use of any restricted-use pesticide. Among other data, the record must include the name of the product applied, the name of the targeted pest, the amount and concentration of the pesticide used, the total area covered, the date of the application, the address or location of the treated site, and the name of the certified applicator.

STORAGE AND DISPOSAL OF PESTICIDES — No pesticide may be stored where food or feed is likely to become contaminated. Pesticides and empty pesticide containers may not be disposed of in any way which could create a hazard.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401). The Department is responsible for the certification of pesticide applicators in the state and for monitoring the use and application of pesticide products. Authorized representatives of the Department may enter any public or private property at any reasonable time to inspect application methods and equipment, to examine and collect samples of plants, soil and other materials, and to take other measures to enforce the state pesticide law. Any person who violates the law or any regulation issued under its authority may, upon the first violation, receive a written warning citing the specific violation and necessary corrective action. Civil or criminal penalties, however, ranging from a fine to a prison term, may be imposed for any infraction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

• HAWAII PESTICIDES LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 149A-1 - 149A-53

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 4-66-1 - 4-66-67

GENERAL SUMMARY: In addition to its licensing provisions and general application standards, the Hawaii Pesticides Law authorizes state regulations governing the certification of aerial applicators and the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — Aerial pest control applicators must demonstrate broad knowledge regarding drift and drift control, weather effects, application equipment and techniques, and the potential for adverse effects of aerial applications on people, beneficial insects, wildlife, livestock, and non-target plants.

RECERTIFICATION — To qualify for renewal of an aerial applicator certificate, the holder must complete 25 hours of prescribed training or pass a written examination.

AERIAL PERMITS — No one may apply a restricted-use pesticide by aircraft without obtaining a special permit issued by the state agency. Among other requirements that must be met before a permit is issued, the plantation or farm applying for the permit must state the purpose of the aerial treatment, identify the pesticide and dosage to be used, and submit a map or sketch showing the proposed site and the surrounding homes, roadways, waterways and agricultural fields. A permit may cover a single treatment, or may be issued for multiple or continuous treatments when conditions are not expected to change during subsequent treatments conducted in the same designated area.

OPERATING CONDITIONS — Spray equipment must be leakproof, and power rigs used for inter-row or broadcast applications must be equipped with a pressure control device and pressure gauge.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401). The Department is responsible for the certification of aerial pesticide applicators in the state and for monitoring the aerial application of pesticide products. Authorized representatives of the Department may inspect aerial application equipment and loading areas, and may take other measures to enforce these provisions. Civil or criminal penalties, ranging from a fine to a prison term, may be imposed for any infraction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

• HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (HAZARD COMMUNICATION)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Hawaii's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to comply with the hazard communication standard. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (ANHYDROUS AMMONIA)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: The state agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Hawaii's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

→ WAGE AND HOUR LAW (MINIMUM WAGE)

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-1 - 387-15

GENERAL SUMMARY: Among its other purposes, Hawaii's wage and hour law establishes a state minimum wage, along with recordkeeping and posting requirements which every employer subject to the law is obligated to observe. The state minimum wage is currently \$9.25 an hour, but is scheduled to rise to \$10.10 beginning January 1, 2018.

The state minimum wage generally applies only to employees who are not covered by the minimum wage provisions of the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage). But in any workweek when the state minimum is higher than the federal rate, workers who would otherwise be excluded by this provision are entitled to the state minimum wage that week also. Since the current \$7.25 federal minimum wage is less than Hawaii's current rate of \$9.25, this provision effectively extends the state minimum wage to otherwise covered workers here regardless of their coverage under FLSA.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE —

Agriculture Generally — During any workweek in which the employer has at least 20 employees, a worker engaged in any agricultural service other than coffee harvesting is entitled to no less than the state minimum wage.

Coffee Harvesting — The state wage and hour law, and thus the minimum wage, *does not apply* to workers employed in any workweek in the harvesting of coffee.

RECORDKEEPING — Every employer who has any employee covered by the wage and hour law must record and safeguard certain data for each covered worker, including name, address, occupation, the amount of wages paid each pay period, the hours worked each day and each week, and the pay rate and basis thereof.

POSTING — Every subject employer must keep posted, in conspicuous locations at each workplace, prescribed notices regarding the provisions and coverage of the wage and hour law, to inform workers of their rights and entitlements under the statute.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). Agents of the Department are authorized to enter any establishment or place of employment, to inspect and copy payroll and related employer records, and to question any employee in an investigation of a wage complaint or any other suspected violation of the wage and hour law. A worker who believes he or she has not received full pay in accordance with these provisions may file a claim with the nearest district office of the Department. In addition to restitution of unpaid wages, an employee found to have been underpaid as a result of a willful violation of the law is entitled to an equal amount as liquidated damages. Violators are also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

→ WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-1 - 387-15

GENERAL SUMMARY: The state wage and hour law prohibits the employment of most workers in Hawaii for a workweek longer than 40 hours unless such workers are paid overtime compensation at a rate no less than 1¹/₂ times the regular rate of pay for every hour of employment in excess of the 40-hour limit.

PROVISIONS APPLICABLE TO AGRICULTURE

TOTAL EXEMPTION — The wage and hour law (and thus the overtime pay requirement) **does not apply** to any individual employed in agriculture for any workweek in which the worker's employer has fewer than 20 employees, or the worker is engaged in coffee harvesting.

PARTIAL EXEMPTION — An employer who is engaged in agriculture, or in the first processing, canning or packing of any agricultural commodity, is not required to pay overtime compensation for hours in excess of 40 in a workweek to any of its employees during any 20 workweeks selected by the employer in any yearly period commencing July 1. During those 20 weeks of exemption, however, the employer must pay overtime for hours in excess of 48 hours at the rate of $1^1/2$ times the covered workers' regular rate of pay.

FULL OVERTIME COVERAGE — Except with respect to coffee harvesters and during the 20 weeks during which such employers are exempt as outlined above, agricultural employers who employ 20 or more workers in a workweek are required to pay their workers in that workweek at least 1½ times their regular pay rate for every hour of work in excess of 40.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). It is the duty of this agency to assure compliance with the overtime requirements of the wage and hour law. In that capacity, the Department is authorized to enter any workplace in the state to inspect payroll records, question workers, and take other steps to investigate specific complaints or suspected violations. Any worker who has not received overtime pay in accordance with these provisions may file a claim with any district office of the Department. Employers who fail to pay required overtime are liable to the employee or employees affected in the amount of the unpaid compensation, and, in the case of a willful violation, in an equal amount as liquidated damages. Such employers are also subject to criminal fines and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

WAGE PAYMENT LAWS

STATUTORY CITATION: Haw. Rev. Stat. §§ 388-1 - 388-52

GENERAL SUMMARY: Chapter 388 of the Hawaii statutes prescribes certain minimum standards regarding paydays, payment of wages at termination, method of payment, withholding of wages, notices and pay statements. These provisions are applicable to all non-governmental employing entities, including farm operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must pay all employees' earnings at least twice during each calendar month, on regular paydays designated in advance by the employer, unless a different arrangement is approved by the state enforcement agency or adopted by majority vote of the workers in a state-approved secret-ballot election. An employee's earnings are due and payable within 7 days after the end of each pay period.

FINAL PAY — Whenever an employer lays off or discharges a worker, with or without cause, the worker must receive final pay no later than the next regular business day following layoff or termination. A worker who quits or resigns is entitled to final pay no later than the next regular payday following termination, unless the worker gives at least one pay period's notice of intention to quit, in which case the employer must pay final wages at the time of termination.

METHOD OF PAYMENT — Employers are required to pay wages in lawful U.S. money, with checks convertible into cash on demand at full face value, by direct deposit to the worker's FDIC-insured bank account, or with a prepaid debit card; use of a debit card is subject to strict limitations. If a worker receives wages in the form of a check for which insufficient funds are available in the employer's account, the employer is liable for any bank overdraft charges or special handling fee which the worker may incur as a result of negotiating the check.

WITHHOLDING OF WAGES — No employer may deduct, retain or otherwise withhold any part of any compensation earned by a worker, except where required by federal or state law or a court order, or as authorized in writing by the worker. Certain deductions, however, are not lawful even with the worker's approval, including, among others, (1) fines, penalties, or replacement costs for breakage, (2) losses due to damage to property, and (3) expenses for medical or physical examination, if such examination is requested or required by the employer.

NOTICES AND PAY STATEMENTS — Among other notification requirements, employers must (1) notify employees at the time of hiring as to the rate of pay and the day, hour and place of payment, and (2) furnish each employee, on every payday, with a legible statement showing the employee's total gross compensation, the amount and purpose of each deduction, total net pay, the date of payment, and the pay period covered.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). The Department has the right to inspect and copy any of the employer records required under the wage payment provisions, to question employees, and to investigate other facts and conditions to determine whether an employer or other individual has violated any such provision. If a judgment obtained by the Department against an employer for non-payment of wages remains unsatisfied after appeal periods have expired, the Department may commence proceedings in state circuit court to compel the employer to cease doing business until the judgment has been satisfied. Employers who violate the wage payment laws are also liable for civil damages and subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

→ WAGE AND HOUR LAW (PAY STATEMENTS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-6(c)

GENERAL SUMMARY: In addition to minimum wage and overtime provisions, the state wage and hour law includes language requiring employers to provide covered employees with itemized written pay statements at the time of each payment of wages.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURE GENERALLY — Every worker who performs agricultural labor other than coffee harvesting, in any workweek in which the employer has at least 20 employees, must receive from the employer at every pay period a legible notice showing total hours worked, a breakdown of regular and overtime hours (if any), straight-time compensation, overtime compensation (if any), other compensation, total gross pay, the amount and purpose of each deduction, total net pay, the date of payment, and the pay period covered.

COFFEE HARVESTING — The wage and hour law, and thus the provision requiring pay statements, *does not apply* to agricultural workers in any workweek in which they are engaged in the harvesting of coffee.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). Any worker covered by the wage and hour law who does not receive a written pay statement at the end of a pay period, as required, may notify the Department, which is obligated to investigate the complaint and take action to assure the employer's compliance. Failure by an employer to provide required pay statements and other notifications is an offense punishable by fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against the employer to enforce these provisions, utilizing a private attorney or public legal service provider.

● STATE INCOME TAX LAW (WITHHOLDING PROVISIONS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 235-61 – 235-69

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 18-235-61-01 - 18-235-61-14

GENERAL SUMMARY: The state income tax law imposes a tax on certain individual income, including earnings, and requires most employers to deduct and withhold from each worker's wages an amount of tax calculated to reflect the worker's tax liability at year's end. Employers must report and forward withheld taxes to the state monthly or quarterly, and by January 31 of the succeeding year must furnish to each worker from whom taxes were withheld a written statement showing the period covered by the statement, the wages paid, and the amount of taxes withheld. A duplicate copy of the wage and tax statement must be submitted by the employer to the state by the last day of February.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers are implicitly subject to state income tax withholding on the same terms as workers in non-agricultural occupations and industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Division, Department of Taxation, Honolulu, Hawaii 96813 (808-587-1611). The Department is in charge of the collection of state income taxes from individuals, and for enforcing the withholding and reporting requirements applicable to employers. A worker who has reason to believe that taxes withheld from wages have not been properly reported or forwarded by the employer to the state agency, or who has not received an annual wage and tax statement from the employer, should contact the nearest district office of the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

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Idaho

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Idaho Code §§ 44-1301 - 44-1308

GENERAL SUMMARY: The state child labor law limits both the occupational activities and the working hours of minors under the age of 16, and requires that employers in certain industries maintain records of the names, ages and addresses of all such workers in their employ.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND HOUR LIMITATIONS —

Children Under Age 14 — No child under the age of 14 may be employed in any business or service during the hours in which the public schools in the district in which the child resides are in session, or before the hour of 6:00 a.m. or after 9:00 p.m. Also, children under 14 may not be employed or permitted to work more than 54 hours in any one week, nor more than 9 hours in any one day. The state child labor law does not impose a minimum age for employment in agriculture.

Children Age 14 and 15 — Individuals 14 and 15 years of age are not permitted to work more than 54 hours a week or more than 9 hours a day, nor before 6:00 a.m. or after 9:00 p.m. Except for the school-related hours limitation below, there are no other restrictions on the employment of 14- and 15-year-olds in agricultural activities.

EDUCATIONAL REQUIREMENTS — No one under age 16 may be employed or allowed to work during school hours for the district where the minor resides, unless the minor (1) can read and write simple sentences in the English language, (2) has received instruction in spelling, English grammar and geography, and (3) is familiar with fundamental arithmetic operations up to and including fractions. Similar competencies in a language other than English will satisfy this requirement.

RECORDKEEPING — The recordkeeping duties with respect to the employment of minors *do not apply* to agricultural and other industries not explicitly covered by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The state child labor law is enforced by county probation officers and local school board trustees, who are authorized to visit places of employment to ascertain if any minors are being employed contrary to these provisions. Any such official, as well as any other reputable citizen, may bring a complaint regarding a child labor offense to the attention of the respective prosecuting attorney.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Idaho Code §§ 33-201 – 33-211

GENERAL SUMMARY: With certain narrow exceptions, the parent or guardian of any child residing in Idaho who has attained the age of 7 years at the start of school in the local district, but has not reached the age of 16, must assure that the child attends a public, private or parochial school, or receives approved comparable instruction, for a period of time each year equal to the duration of the public school session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provision applies universally to children in the affected age bracket unless they are individually excused or exempted by local school authorities. The obligation to assure attendance falls on parents or guardians without respect to occupational category.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school district boards of trustees, in cooperation with county probation officers. Whenever it comes to the attention of the local school board that the parents or guardians of any child are failing to meet their duty to assure the child's school attendance, the board may file a petition to have proceedings brought against the parents or guardians under the Juvenile Corrections Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

HUMAN RIGHTS LAW

STATUTORY CITATION: Idaho Code §§ 67-5901 - 67-5912

RELATED REGULATIONS: Idaho Admin. Code R. 45.01.01

GENERAL SUMMARY: The state human rights law outlaws, among other practices, certain specified acts of employment discrimination based on race, color, religion, sex, national origin, age or disability. The law also authorizes creation of the Idaho Commission on Human Rights and establishes procedures for reporting and resolving discrimination complaints.

PROVISIONS APPLICABLE TO AGRICULTURE

PROHIBITED ACTS — As in any other industry in Idaho, an agricultural employer who has 5 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year is forbidden from discriminating in employment against anyone on the basis of race, color, religion, sex, national origin, age or disability. Employment discrimination on these grounds includes (1) failing or refusing to hire a job applicant, (2) firing an employee, and (3) discriminating against an individual with respect to compensation or the terms, conditions or privileges of employment. Comparable acts of discrimination by employment agencies and labor organizations are also prohibited.

LIMITATIONS — It is not regarded as a discriminatory practice for an employer, employment agency or labor organization to distinguish between employees, job applicants or members on the basis of religion, sex, national origin, or age if religion, sex, national origin or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Similarly, an employer, employment agency or labor organization may observe the terms of a bona fide seniority system or employee benefit plan as long as the system or plan is not a subterfuge to evade the law's anti-discrimination purposes. Likewise, the prohibition against discrimination because of disability does not apply if the particular disability prevents the performance of the work required in that job. Too, the age discrimination protection applies only to individuals who are at least 40 years of age.

COMPLAINT PROCEDURES — Anyone who believes he or she has been subjected to unlawful discrimination under these provisions may file a complaint with the state enforcement agency within one year of the alleged unlawful discrimination. Agency staff must attempt to resolve the complaint informally prior to determining if there are reasonable grounds to believe a discriminatory act has occurred. Failing informal resolution, the agency must continue its investigation, and on a finding of reasonable grounds to believe an unlawful practice has occurred which cannot be eliminated by further informal methods, the agency may bring civil action seeking appropriate relief. Any civil action taken by the state agency must commence no later than one year after the complaint is filed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Idaho Commission on Human Rights, Boise, Idaho 83735 (208-334-2664).* The Commission is responsible for accepting and acting on complaints filed by persons alleging employment discrimination, as outlined above. In a civil action brought by the Commission on behalf of a complainant, a finding by the court that unlawful discrimination has occurred may result in one or more appropriate remedies, including a cease-and-desist order, an order to employ, reinstate or promote the victim of the act, an order for actual damages such as lost wages and benefits, or an order for punitive damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A person who alleges unlawful employment discrimination under the human rights law may, through private legal counsel or a public legal service provider, file an action in state district court on his or her own behalf, provided that the complaint is first filed with the Human Rights Commission and that the Commission issues a formal notice of dismissal of the complaint. A civil action by the complainant may not be filed any later than 90 days after the Commission's dismissal notice.

STATE LABOR LAWS (WAGE DISCRIMINATION)

STATUTORY CITATION: Idaho Code §§ 44-1701 - 44-1704

RELATED REGULATIONS: Idaho Admin. Code R. 45.01.01

GENERAL SUMMARY: Chapter 17 of the state labor laws bans wage discrimination on the basis of sex and establishes procedures for the collection of unpaid wages by employees affected by such discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE

UNLAWFUL ACTS — In agriculture as in all other industrial sectors in the state, no employer may discriminate between or among employees in the same establishment on the basis of sex, by paying wages to any employee at a rate less than the rate at which employees of the opposite sex are paid for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. However, differentials that are paid pursuant to established seniority systems or merit increase systems which do not discriminate on the basis of sex are not prohibited.

COLLECTION OF UNPAID WAGES — At the written request of an employee claiming to have been paid less than the wage to which the worker is entitled under the anti-discrimination provision, the state enforcement agency may bring legal action on the worker's behalf to collect the claim and obtain other suitable relief.

SPECIAL NOTES OR ADVISORIES

RETALIATION — No employer may discharge or discriminate against any employee because the employee filed a claim or took any other action to exercise rights under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Idaho Commission on Human Rights, Boise, Idaho 83735 (208-334-2664).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Employees have a right to take private legal action against any employer believed to have paid unequal wages on the basis of gender. In a private suit for a willful violation, the employer is liable to the employee or employees affected in the amount of their unpaid wages, plus an equal amount as liquidated damages. The court may also order appropriate affirmative action, including reinstatement of any employee illegally discharged.

STATE LABOR LAWS (EMPLOYMENT CONTRACTS)

STATUTORY CITATION: Idaho Code § 44-902

GENERAL SUMMARY: Chapter 9 of the state labor laws, which governs employment contracts in Idaho, contains a provision making it unlawful for employers or other parties to impose as a condition for employment any terms controlling where or with whom an employee is to board or reside, specifying a particular establishment at which an employee must purchase goods, or dictating how or where a worker's wages are to be spent. It is similarly illegal for an employer to dismiss a worker for reasons related to where or with whom the worker resides, where the worker purchases goods, or how or where the worker spends his or her wages.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies equally to agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. An employer who violates these worker protections is subject to a fine of up to \$300, imprisonment for up to 90 days, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HEALTH AND SAFETY

■ FARM WORKER SANITATION FACILITIES LAW

STATUTORY CITATION: Idaho Code §§ 44-1901 - 44-1905

GENERAL SUMMARY: To preserve sanitation and health, and in the interest of the privacy and dignity of the agricultural labor force, Chapter 19 of the state labor laws requires the provision of toilet facilities in the fields in certain Idaho farming operations.

SPECIFIC TERMS AND CONDITIONS: In any agricultural crop activity in which 8 or more workers are working as a crew, unit or group for a period of 4 or more hours, the farm operator (or, where workers are furnished by a farm labor contractor, the labor contractor) must provide and maintain at least one toilet facility in a clean and sanitary condition for every 40 workers or fraction thereof.

Toilet facilities, which may include portable units, must be of such design as to provide privacy and prevent contamination of crops and nearby water supplies. Toilets must be placed within 1/4 mile of where the workers are working, but where ground terrain or other physical conditions prevent compliance with the 1/4-mile distance limitation, toilet facilities must be located at the point of vehicular access closest to the workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. A farm operator or farm labor contractor who willfully or negligently violates the sanitation requirement is subject to a fine of not more than \$300 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Idaho Code §§ 72-1301 – 72-1385

GENERAL SUMMARY: To protect workers against economic insecurity due to unemployment, the Employment Security Law creates a state employment security fund from which weekly cash benefits are payable to eligible individuals who are temporarily without work but actively seeking new employment. Most Idaho employers are required to pay contributions to the fund if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other employer who (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) on any day in 20 or more different calendar weeks employed at least 10 workers for agricultural services, is required to pay contributions to the state employment security fund. Subject employers are liable for UI taxes on each employee's earnings in any calendar year, generally up to a taxable amount equal to the average annual wage of all covered workers in the state the previous year.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker is eligible to receive UI benefits if the claimant (1) has registered for work and is able to work, available for work and seeking work, (2) has earned more than an annually determined "minimum qualifying amount" of wages — in 2017, roughly \$1,872 — from covered employers during the peak quarter of the first four of the last five completed calendar quarters preceding the claim, and (3) has total wages for the four-quarter base period equal to at least 11/4 times the high-quarter wages.

AMOUNT OF BENEFITS — In brief, an eligible worker's weekly benefit amount is computed to be 1/26 of the worker's high-quarter earnings over the four-quarter base period, up to a maximum amount tied to the state average weekly wage paid by covered employers in the preceding calendar year. With respect to any week of total or partial unemployment, the worker's actual unemployment compensation payment is the weekly benefit amount, minus any wages earned that week in excess of one-half the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — Farm labor contractors who are licensed under Idaho's farm labor contractor licensing law (see entry, Idaho — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration) are required to pay unemployment insurance taxes on behalf of the workers they employ. In the case of labor contractors who are not licensed under the state law, and who furnish workers to perform farm labor for a farm operator who is required to pay UI contributions, both the contractor and the farm operator are jointly responsible for paying the contributions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570). The Department is responsible for determining employer liability for UI taxes and for collecting contributions from liable employers. This agency also processes claims and administers the payment of benefits to eligible claimants. Any worker who is totally or partially unemployed may file an application for benefits online, at labor.idaho.gov/ClaimantPortal.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKER'S COMPENSATION LAW

STATUTORY CITATION: Idaho Code §§ 72-101 - 72-806

GENERAL SUMMARY: The Worker's Compensation Law assures the payment of medical expenses and income benefits for most workers in Idaho who are injured on the job or in the course of employment, by imposing on most employers in the state the obligation to cover their employees with a prescribed workers' compensation insurance policy or to maintain adequate security to cover compensation claims directly. In general, employers who comply by purchasing workers' compensation insurance or depositing security as self-insurers are protected against any further legal liability for job injuries suffered by their employees, while injured workers and their dependents are protected against loss of income and inability to cover medical costs in the event of work-related injury or death.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker's Compensation Law generally applies to agricultural employers and workers to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Idaho Industrial Commission, Boise, Idaho 83720 (208-334-6000).* The Industrial Commission is responsible for regulating workers' compensation activities in Idaho, which includes overseeing companies that issue workers' compensation insurance policies, ensuring that employers have workers' comp coverage as required by law, and settling disputes between injured workers, their employers and insurers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

FARM LABOR CONTRACTOR LICENSING LAW

STATUTORY CITATION: Idaho Code §§ 44-1601 – 44-1618

GENERAL SUMMARY: Chapter 16 of the state labor laws regulates the activities of farm labor contractors in Idaho, by requiring that they obtain a state-issued license, prove financial responsibility for payment of claims, and comply with certain duties and restrictions spelled out in the statute.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may act as a farm labor contractor without obtaining a license to do so from the state labor department. As conditions for issuing the license, the applicant must provide information that will enable the department to confirm the person's fitness, competency and qualifications to engage in the farm labor contracting business.

FINANCIAL RESPONSIBILITY — License applicants must obtain a surety bond or equivalent security in the amount of \$10,000 (\$30,000 if they employ more than 20 workers), to cover the contractor's liability to the workers for any unpaid wages or other damages.

DUTIES — Among many other duties imposed on them, farm labor contractors must:

- Carry their contractor license with them at all times.
- (2) Promptly pay their workers and others with whom they do business as a contractor.
- (3) Provide their workers, at the time of recruiting, hiring or dispatching to a worksite, a written statement detailing the wage or piece rate to be paid, the terms and conditions of employment, any housing or other facilities to be provided, and the workers' rights and remedies, including the right to make a claim against the contractor's surety bond.
- (4) Provide the workers with a written pay statement, at the time of each payment, itemizing the total amount of pay, the amount and purpose of each deduction, the hours worked, and the number of units of production if paid on a piecework basis.

RECORDKEEPING — Contractors must make a record, and preserve it for 3 years, of each employee's wages, hours, total earnings, pay deductions, and work locations.

PROHIBITED ACTS — Among other things, it is illegal for a farm labor contractor, or an applicant for a contractor license, to:

- Make false statements or misrepresentations on the license application.
- (2) Make a false, fraudulent or misleading representation to any person, or to circulate or publish false or misleading information concerning the terms, conditions or existence of any employment.
- (3) Use force, intimidation or a threat including a threat of deportation to induce workers to give up any part of the wages to which they are entitled.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for a farm labor contractor to fire or in any other manner discriminate against a worker because the worker made a claim against the contractor, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570).* This agency is responsible for licensing farm labor contractors under state law, and for investigating violations by or complaints against licensed or unlicensed contractors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may bring a civil suit for injunctive relief, damages or both, using a private attorney or public legal service provider. If it finds in the complainant's favor, the court may award actual damages, plus *three times* the amount of actual damages, or up to \$1,000 per violation, whichever is greater. Civil action must be commenced no later than 2 years after the violation occurred.

PESTICIDES AND AGRICULTURAL CHEMICALS

STATE PESTICIDE LAWS

STATUTORY CITATION: Idaho Code §§ 22-3401 - 22-3426

RELATED REGULATIONS: Idaho Admin. Code R. 02.03.03

GENERAL SUMMARY: Chapter 34 of Idaho's agriculture and horticulture laws regulates the registration, labeling, distribution, application and disposal of pesticides in the state, and authorizes administrative adoption of more specific standards to control the use of pesticide products.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may apply any pesticide in Idaho for hire without being licensed by the state as a professional applicator, and agricultural producers using restricted-use pesticides on their own crops must be licensed as private applicators. As prerequisites for licensing, professional pesticide applicators are required (1) to pass an examination to demonstrate knowledge of proper handling and application of pesticides, (2) to provide a bond, cash deposit or proof of insurance covering liability for damages resulting from handling or use of pesticides, (3) to pay a state license fee, and (4) to meet other prescribed conditions. Private agricultural applicators must successfully complete an examination.

APPLICATOR RECORDKEEPING — Professional applicators are required to keep a record of each pesticide application. The record must include, among other data, the name and address of the owner or operator of the property treated, the specific crop involved, the name of the pesticide used, the dilution or rate at which the substance was applied, the total amount of the product applied, and the date of application.

PROHIBITED ACTS — The following practices, among others, are generally unlawful:

- Use of a pesticide product in a manner inconsistent with its labeling.
- (2) Operation of a faulty or unsafe pesticide spray apparatus, aircraft or other application device or equipment.
- (3) Application of pesticides in a faulty, careless or negligent manner.
- (4) Failure or refusal to maintain records or file reports as required under the pesticide laws.
- (5) Non-compliance with licensing requirements and any related duty prescribed by regulations authorized under Chapter 34.

DAMAGE CLAIMS — Anyone who suffers injury or damage resulting from the use or application of pesticides by another party may, within 60 days of such occurrence file a written report of loss with the state enforcement agency. The agency may investigate the complaint to determine the nature and extent of the purported injury or damage, and the agency must prepare a written report of its investigation. Copies of the report must be made available on request to any party with a financial interest in the matter.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613). The Department is in charge of licensing pesticide applicators in the state and monitoring compliance by licensed applicators with statutory and administrative requirements on the use and handling of agricultural pesticides. Representatives of this agency may enter any public or private premises at reasonable times for the purpose of observing the use and application of pesticides, inspecting records, equipment and storage facilities, sampling soil, pesticides or other materials, and investigating complaints of injury or damage. In connection with damage claim investigations, the Department is required to report all non-minor violations of the pesticide provisions to appropriate public authorities for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE PESTICIDE LAWS (AERIAL APPLICATORS)

STATUTORY CITATION: Idaho Code §§ 22-3401 – 22-3426

RELATED REGULATIONS: Idaho Admin. Code R. 02.03.03

GENERAL SUMMARY: The administrative rules adopted under the state pesticide laws include explicit provisions regulating the application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

RECORDKEEPING — In addition to the requirements applicable to other professional pesticide applicators, individuals and firms that apply pesticides commercially by aircraft must maintain a record of the time of day of each application of pesticides, and of the approximate wind speed and direction at the time of application.

OPERATING RESTRICTIONS — During spray operations, pilots are prohibited from turning or flying low over towns or densely populated areas without written authorization, or directly over an occupied structure (such as a housing facility or school) without permission from the owner of the structure. Aerial pesticide application is forbidden at any location when the sustained wind speed is over 10 miles per hour, or in wind conditions exceeding product label directions. Chemicals may not be applied when wind speed favors drift beyond the area intended for treatment, or when chemical distribution is adversely affected.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Idaho Code §§ 44-1501 - 44-1509

GENERAL SUMMARY: The Minimum Wage Law establishes a state minimum wage, applicable to most employers in Idaho and their employees. The minimum wage rate is set in the statute to conform to and track the federal minimum wage, which is currently \$7.25 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: With the notable exceptions explained below, most workers employed in agricultural labor are entitled to the state minimum wage.

Exceptions — The Idaho minimum wage law does not apply to any individual older than 16 years of age who (1) is employed as a hand harvest worker, (2) is paid on a piecework basis, in an operation customarily paid on a piecework basis in the region of employment, (3) commutes to the farm daily from his or her permanent residence, and (4) was employed in agriculture less than 13 weeks during the preceding calendar year.

Hand-harvest workers 16 years old and younger working piecework on the same farm as their parents, and on the same piecework basis as workers over age 16, are also excluded from the state minimum wage.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or in any other manner discriminate against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570). This agency is responsible for enforcing compliance with the state minimum wage law. The agency has broad authority to investigate wage claims filed by workers under this law and the state wage payment laws. Workers who have not received the minimum wage to which they believe they are entitled should contact the Department's nearest labor compliance officer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE LIEN LAWS (CLAIMS FOR WAGES)

STATUTORY CITATION: Idaho Code §§ 45-601 – 45-621

GENERAL SUMMARY: Chapter 6 of the state lien laws regulates pay periods, method of pay, and the withholding of workers' wages, and prescribes a claims process for collecting unpaid wages and damages. These provisions apply to all employers and employees in the state, regardless of industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Every employer in Idaho must pay all wages due at least once each calendar month, on regular paydays designated in advance by the employer. In general, a designated payday may not be more than 15 days after the end of the pay period for which payment on that day is to be made. If the regular payday falls on a non-workday, payment must occur on the preceding workday.

METHOD OF PAY — Wages must be paid in lawful U.S. currency, by check drawn on banks where suitable arrangements are made for cashing at no charge to the employee, or by direct deposit to an account voluntarily selected by the employee.

WITHHOLDING OF WAGES — No employer may withhold or divert any portion of an employee's wages, unless the employer is required or authorized to do so by state or federal law, or the employer has written authorization from the employee to make such a deduction for a lawful purpose. For each pay period for which deductions from the worker's pay are made, the employer must provide the employee with an itemized statement of each such deduction and keep an accurate record thereof.

WAGE CLAIMS — Any worker with a claim for unpaid wages in an amount up to \$1,000 may request the state enforcement agency to take assignment of the claim in trust; the agency may then commence legal action on behalf of the worker to recover the unpaid wages and appropriate damages in court. A judgment in favor of the worker may include, in addition to the unpaid wages, reasonable attorney's fees and court costs, plus damages of up to three times the amount of unpaid wages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or in any other manner discriminate against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570). In pursuit of a wage claim or other suspected violation of these provisions, the Department may enter and inspect any workplace in the state, question employees, and investigate any matter deemed appropriate to determine if a violation has occurred. Likewise, agency personnel are authorized to hold hearings, subpoena witnesses and documents, and take depositions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the state labor department determines that it lacks jurisdiction over a wage claim, the claimant has the right to file the complaint in a civil suit, using a private attorney or public legal service provider.

STATE LIEN LAWS (FARM LABORER'S LIEN)

STATUTORY CITATION: Idaho Code § 45-303

RELATED REGULATIONS: Idaho Admin. Code R. 34.05.02

GENERAL SUMMARY: Chapter 3 of the Idaho lien and mortgage statutes provides farm laborers with the right to a lien against the crops on which they perform labor in the event of non-payment of wages.

SPECIFIC TERMS AND CONDITIONS

RIGHT TO LIEN — Any person who performs farm labor on a farm in furtherance of production of a crop in Idaho has a lien on the crop or crops involved as reasonable compensation for labor whenever the farm operator or landowner fails or refuses to pay the laborer's wages in full.

NOTICE OF CLAIM — A worker who has not been paid full wages for farm labor performed for a farm producer or landowner should, no later than 120 days after the work is finished, file a notice of claim with the Idaho Secretary of State's office. The notice must specify the type of claim (farm laborer's lien), the name and address of the producer, the name and address of the claimant, the county or counties where the crop or crops were grown, the name of the commodity to which the lien applies, and the amount of the claim, not including interest.

ENFORCEMENT OF LIEN — A civil suit may be brought to enforce the lien, through private legal counsel or a public legal service provider. A farm laborer's lien may not bind the crop or crops involved for a period longer than 12 months after the claim is filed, but the notice of claim may be extended an additional 6 months by application to the Secretary of State's office within 60 days prior to the expiration of the original 12-month period.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Secretary of State, Boise, Idaho 83720 (208-334-3191). This agency is responsible for accepting and filing claims under the farm laborer's lien provision, but does not have any investigative or enforcement authority.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ IDAHO INCOME TAX ACT

STATUTORY CITATION: Idaho Code §§ 63-3001 – 63-3087

GENERAL SUMMARY: The Idaho Income Tax Act establishes a state tax on personal income, including earnings from employment, and requires employers to withhold and forward to the state a prescribed portion of each employee's wages calculated to reflect the employee's state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers, defined as individuals over 2/3 of whose gross income is derived from farming, are subject to special withholding requirements but generally must adhere to the same tax deposit and reporting requirements as their non-agricultural counterparts.

INCOME TAX WITHHOLDING — With respect to any worker who earns or is expected to earn \$1,000 or more in cash wages, bonuses and other compensation during the tax year, every Idaho farm employer must deduct and retain state withholding tax in an amount substantially equivalent to the tax reasonably calculated to be due from the employee, using withholding tables provided by the State Tax Commission.

TAX DEPOSITS AND REPORTING — Agricultural employers are required to periodically forward all withholding taxes to the state agency, and to file a return showing the compensation paid to each employee and the amount of withholding taxes deducted. No less than 30 days after the end of the calendar year, the farmer-employer must furnish a record of the amount of tax withheld to each worker from whose pay withholding taxes have been deducted, and must file a copy of the employee tax statement with the state agency.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Idaho State Tax Commission, Boise, Idaho 83722 (208-334-7660).* The Commission is responsible for the collection, reporting and accounting of state income taxes. Any worker who has reason to believe that withholding taxes deducted from earnings by an employer have not been properly paid or reported to the Commission, or who has not received an annual withholding tax statement from an employer who has deducted such taxes from the worker's pay, should contact a representative of the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

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Illinois

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 205/1 - 205/22

RELATED REGULATIONS: Ill. Admin. Code Title 56, Part 250

GENERAL SUMMARY: The Child Labor Law establishes minimum age restrictions, limitations on hours of work, meal period requirements, and certain occupational restrictions for the lawful employment of most minors in Illinois under the age of 16. The law also prescribes the use of employment and age certificates as a means of facilitating compliance.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE —

Children Under Age 12 — With few exceptions, minors under the age of 12 years may not be legally employed in any agricultural occupation.

Children Age 12-15 — Minors 12 through 15 years of age (inclusive) may generally be employed in agriculture only outside school hours or during school vacation periods.

Children Age 16 and Over — There are no state restrictions on agricultural employment for workers 16 years of age and older.

HOURS OF WORK — Individuals 12 to 15 years of age, whose farm employment is limited to times when school is not in session as outlined above, are prohibited during such times from working for more than 6 consecutive days in any one week, more than 48 hours in any one week, or more than 8 hours in any one day. Such workers may not be employed between the hours of 7:00 p.m. and 7:00 a.m. from Labor Day until June 1, or between 9:00 p.m. and 7:00 a.m. from June 1 to Labor Day. On days when school is in session, work outside school hours is generally limited to no more than 3 hours, and the combined time in school and on the job may not exceed 8 hours.

MEAL PERIODS — No minor under 16 who is allowed to work in agriculture when school is not in session may be employed or permitted to work continuously for more than 5 hours without a meal period of at least 30 minutes, and no break of less than 30 minutes is regarded as interrupting a continuous period of work.

EMPLOYMENT CERTIFICATES — The provision generally barring the employment of a minor unless the employer obtains an employment certificate from the superintendent of schools, *does not apply* to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2804). The Department has authority to conduct investigations to enforce the Child Labor Law and is empowered to visit and inspect any workplace covered by the law at any reasonable time. The Department may file complaints against employers found to have violated any of these provisions and may assess civil money penalties of up to \$5,000 per violation, enforceable in state circuit court. Employers in violation are also subject to criminal prosecution. Questions and complaints may be directed to the Department's child labor toll-free hotline, 800-645-5784.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Truant officers and other authorized school officials may enter any place where children are or are believed to be employed and may file a complaint against any employer unlawfully employing minors.

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: 105 Ill. Comp. Stat. §§ 5/26-1 - 5/26-16

GENERAL SUMMARY: With a few narrow exceptions, whoever has custody or control of any child who has reached the age of 6 on or before September 1 and is not over the age of 17 must see that the child attends a local public school (or a private school providing comparable instruction) for the entire time it is in session during the regular school term.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance laws apply to children in the affected age group, and to their parents and guardians, without respect to occupational considerations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school districts and regional school superintendents, through truant officers and other designated authorities. If, after notice of non-compliance and a series of other procedural requirements, a person having custody of a child fails to comply with the attendance assurance responsibility, a truant officer may file a truancy petition with the state's attorney or in circuit court. Conviction of such an offense carries a maximum penalty of 30 days' imprisonment and a \$500 fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

ILLINOIS HUMAN RIGHTS ACT

STATUTORY CITATION: 775 Ill. Comp. Stat. §§ 5/1-101 - 5/10-104

GENERAL SUMMARY: Among numerous other protections, the Illinois Human Rights Act forbids employment discrimination on the basis of race, color, religion, national origin, ancestry, age, sex, marital status, order-of-protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. The Act establishes procedures under which aggrieved individuals may file charges and procedures to process such charges.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as their counterparts in non-agricultural sectors, agricultural employers who have 15 or more employees in Illinois during 20 or more calendar weeks within the current or preceding calendar year are subject to the employment provisions of the Human Rights Act. With respect to an alleged violation based on a worker's physical or mental disability, the Act applies to any employer with one or more employees for any length of time.

CIVIL RIGHTS VIOLATIONS — It is a civil rights violation for any covered employer to refuse to hire a job applicant, to segregate an employee, or to otherwise discriminate with respect to terms and conditions of employment on the basis of an applicant's or employee's race, color, religion, national origin, ancestry, age, sex, marital status, order-of-protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. Comparable acts committed by employment agencies and labor organizations are also unlawful.

LANGUAGE — It is also considered a civil rights violation for an employer to impose a restriction that has the effect of prohibiting a language from being spoken by an employee in communications that are unrelated to the employee's duties.

SEXUAL HARASSMENT — It is a civil rights violation for any covered employer (1) to engage in sexual harassment against an employee, or (2) to permit sexual harassment of an employee by any non-employee or by a non-managerial or non-supervisory employee without taking reasonable corrective measures.

APPLICANT'S ARREST RECORD — In general, it is a civil rights violation for an employer to inquire on a written job application whether an applicant has ever been arrested.

EXCEPTIONS — Among other exceptions, the Act does not prohibit employers from hiring or selecting between persons on the basis of bona fide occupational qualifications, or from applying different standards of compensation or different employment conditions pursuant to a merit or retirement system, provided the system is not used to evade the anti-discrimination purposes of the law.

COMPLAINTS — An individual who has been subjected to employment discrimination under the Act has 180 days to file charges with the Department. After the party alleged to have committed the violation has been notified, the Department must conduct a full investigation of the charges. If the report of findings reveals substantial evidence of a violation, the Department must attempt to resolve the charges through conciliation. If the Department does not act within 365 days from the time charges are filed by a complainant, the complainant has 90 days thereafter to file a complaint with the Illinois Human Rights Commission or commence civil action in circuit court.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is a civil rights violation for an employer or anyone else to retaliate against a person because the person has opposed unlawful discrimination or sexual harassment, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Illinois Department of Human Rights, Chicago, Illinois 60601 (312-814-6200).* The Department has exclusive jurisdiction to investigate complaints under the Illinois Human Rights Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Illinois Human Rights Commission, Chicago, Illinois 60601 (312-814-6269).* In addition to other functions under the Act, the Commission is responsible for hearing all complaints formally filed by the Department of Human Rights. The Commission is empowered to grant such relief and impose such penalties as are authorized in the Act, including back pay, reinstatement, attorney's fees, actual damages and other measures. Decisions by the Commission are enforceable in the state courts.

EQUAL PAY ACT OF 2003

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 112/1 - 112/90

GENERAL SUMMARY: The Equal Pay Act prohibits wage discrimination on the basis of sex and applies to virtually all employers and employees in Illinois.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is illegal for an employer to discriminate between employees on the basis of sex, by paying wages to an employee at a rate less than the rate the employer pays to another employee of the opposite sex for the same or substantially similar work, on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions.

Exceptions — Different wage rates are allowable when payment is made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

RECORDKEEPING — Employers subject to the Act are required to keep records for at least 5 years documenting the names, addresses, and occupations of their employees, and the wages paid to each one.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for an employer to interfere with, fire, or in any other way discriminate against an employee for having filed a complaint, given information, testified or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2808). The Department has authority to conduct investigations to enforce the Equal Pay Act and is empowered to visit and inspect any workplace covered by the law at any reasonable time. On behalf of workers who have filed complaints under this law, the Department may take legal action against employers found to have violated any of these provisions and may assess civil money penalties of up to \$5,000 per violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Illinois Department of Human Rights, Chicago, Illinois 60601 (312-814-6200). The Department of Labor may refer a complaint alleging wage discrimination under the Equal Pay Act to the Department of Human Rights if the subject matter of the complaint also alleges a violation of the Illinois Human Rights Act.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee who has suffered wage discrimination under the Equal Pay Act may take civil action against the employer directly, using a private attorney or public legal service provider. Court action to recover under-paid wages or salaries under the Act must be brought within 5 years from the date of the under-payment.

HEALTH AND SAFETY

OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 219/1 - 219/145

GENERAL SUMMARY: The state Occupational Safety and Health Act formally adopts all of the federal standards established by the U.S. Department of Labor under the federal Occupational Safety and Health Act of 1970, and authorizes the state labor director to promulgate additional standards that promote safety in the workplace. Additionally, the state Act creates a framework for workplace inspections and for receiving, investigating and resolving related complaints lodged by employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The Illinois Occupational Safety and Health Act covers only state, county, municipal, and school district employees, and thus **does not apply** to privately employed agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Illinois Department of Labor, Chicago, Illinois 60601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ FIELD SANITATION ACT

STATUTORY CITATION: 210 Ill. Comp. Stat. §§ 105/1 - 105/13

RELATED REGULATIONS: Ill. Admin. Code Title 77, Part 910

GENERAL SUMMARY: The Field Sanitation Act requires farm operators to provide toilets, handwashing facilities and drinking water for workers employed in certain food crop growing or harvesting operations.

SPECIFIC TERMS AND CONDITIONS: Every farming operation in which 10 or more workers are employed in planting, cultivating or harvesting food or nursery products, is required to provide toilets, handwashing facilities and drinking water at each such job site. All such facilities must be readily accessible to the workers, in no case farther than 1/4 mile from any worker. It is illegal for anyone to deny workers the use of the required toilet, handwashing and drinking facilities.

TOILET FACILITIES — There must be at least one toilet for every 35 workers or fraction thereof. Each facility must be designed to provide privacy and allow proper ventilation, and must be maintained in clean and sanitary condition. Each unit must be supplied with toilet paper.

HANDWASHING FACILITIES — Handwashing facilities, in a ratio of at least one unit for every 35 workers, must include an adequate supply of potable water, soap, and disposable towels or equivalent means of drying.

DRINKING WATER — Potable drinking water, in sufficient quantities for all workers throughout the workday, must be provided in covered containers equipped with drinking-fountain attachments or stocked with individual sanitary drinking cups.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830). Upon receipt of a complaint or reported violation of the Act or the associated regulations, the Department is obligated to inspect the farm operation involved; the Act further requires the Department to conduct random inspections. In both cases, the agency has explicit authority to enter private and public property to enforce the field sanitation provisions. A written notice of any violation will be provided to the farm operator after inspection. A violation is punishable as a petty offense, carrying a minimum fine of \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of these provisions is entitled to take direct civil action against the employer, by filing suit in state circuit court for injunctive relief.

HOUSING

ILLINOIS MIGRANT LABOR CAMP LAW

STATUTORY CITATION: 210 Ill. Comp. Stat. §§ 110/1 - 110/25

RELATED REGULATIONS: Ill. Admin. Code Title 77, Part 935

GENERAL SUMMARY: The Illinois Migrant Labor Camp Law regulates the operation of migrant labor housing in the state, by requiring the licensing of certain labor camps and prescribing standards for the construction and equipment of all migrant labor housing facilities.

SPECIFIC TERMS AND CONDITIONS

FULLY REGULATED FACILITIES — Migrant labor camps consisting of one or more buildings, structures, tents, trailers or vehicles established or operated as living quarters for 10 or more migrant agricultural workers, or for 4 or more families containing such migrant workers, are subject to the following requirements and standards, among others:

Licensing — No one may operate or maintain a migrant labor camp, as defined above, without first having obtained a license to do so from the state. To qualify for a license, a facility operated for an aggregate of 21 days or more in any calendar year must meet the minimum standards outlined below.

Inspection — The state licensing agency is required to inspect each camp at least one time before the migrant workers to be housed arrive and at least once while the camp is occupied.

Construction and Equipment Standards —

- (1) Location and Site. The site must be properly graded, well-drained, and located so as to prevent health or fire hazards, dangerous traffic conditions, and similar hazards.
- (2) Structures. Structures must be structurally sound, in good repair and adequate in size, and must protect the occupants from the elements. Flooring must be rigidly constructed, smoothly finished, readily cleanable, and sealed against water. Living areas must be ventilated, lighted and screened. There must be at least 2 exits in each shelter for use in case of fire, and units must comply with specified numerical space requirements.
- (3) Water Supply. An adequate and convenient supply of potable water is required at all times for drinking, cooking, bathing and laundry purposes. The system must be capable of delivering at least 35 gallons per person per day.
- (4) Toilet Facilities. Separate flush toilets or privies for each sex must be provided within 200 feet of each shelter, but no privy may be closer than 100 feet from any unit. There must be at least one toilet facility for every 15 occupants.
- (5) Bathing Facilities. Bathing facilities, in a minimum ratio of one showerhead for every 10 persons, must be located within 300 feet of each living unit. Except in individual family units, there must be separate facilities for men and women. Hot and cold running water must be provided.
- (6) Laundry Facilities. Adequate laundry facilities, supplied with hot and cold water under pressure, must be made available, with trays or tubs provided in the ratio of one for every 30 occupants, or at least one mechanical washer for every 50 residents plus one tray per 100 occupants.
- (7) Cooking and Eating Facilities. Adequate counter space, food shelves, refrigeration, one stove or hotplate for every 5 occupants, and a table and chairs or equivalent seating arrangements are required in individual family units. Group cooking and eating areas must be separated from sleeping rooms. Wall surfaces adjacent to cooking areas must be fire-resistant and made of non-absorbent, easily cleaned materials.
- (8) Sleeping Facilities. Each room used for sleeping purposes must contain at least 50 square feet of floor space per occupant (100 square feet per person in combined cooking and sleeping rooms) and include beds, cots or bunks, provided with clean mattresses. Any bedding furnished by the housing operator must be clean and sanitary.
- (9) Fire and Safety Provisions. All units must be constructed in compliance with state and local fire and safety laws. There must be adequate means of escape, fire extinguishing equipment, and first-aid facilities in each structure.
- (10) Electric Service. All housing sites must be provided with electricity. There must be safe and numerically adequate numbers of lighting fixtures and electrical outlets in all living areas and common-use rooms.
- (11) Heating Equipment. If the camp operates when the outside temperature falls below 50 degrees F., properly installed and safe heating equipment must be furnished in all rooms except privies and storage sheds. Portable space heaters must have automatic shut-off systems.
- (12) Garbage Facilities. Water-tight containers with tight-fitting lids must be provided throughout the camp.

PARTIALLY REGULATED FACILITIES — Migrant labor camps used as living quarters for fewer than 10 migrant agricultural workers, or for fewer than 4 migrant families, are not required to be licensed, but they must meet the same construction and equipment standards outlined above and are subject to periodic inspection.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830). This agency is authorized to inspect any migrant labor housing facility in the state, regardless of size or duration of occupancy, and is responsible for licensing those facilities which meet applicable standards. An individual, association or firm that maintains or operates a migrant labor camp without securing a license, or in violation of the respective state standards, is subject to a fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of the labor camp law may file suit in state circuit court for injunctive relief, using a private attorney or public legal service provider.

CRIMINAL CODE OF 2012 (CRIMINAL TRESPASS)

STATUTORY CITATION: 720 Ill. Comp. Stat. § 5/21-3

GENERAL SUMMARY: The Criminal Code provides that anyone who enters upon the land of another after receiving prior notice from the owner or occupant that such entry is forbidden, or who remains on the property after receiving notice from the owner or occupant to depart, is guilty of criminal trespass. An exception, however, is made in the case of migrant workers and the guests of migrant workers who are housed on private property in connection with their employment.

SPECIFIC TERMS AND CONDITIONS: A migrant farmworker or anyone else who lives on private property with permission of the owner, or any agent of the owner having authority to hire workers and assign them living quarters, is entitled to free access to the premises without regard to the criminal trespass provisions. Likewise, the criminal trespass law does not apply to anyone invited by a migrant worker living on such land to visit the worker at the place where the worker is living.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The state's criminal laws are enforced by state and local law enforcement agencies and public prosecutors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has been denied free access to his or her living quarters on private property, or whose guests have been denied such access, should contact a private attorney or a public legal service provider.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT INSURANCE ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 405/100 - 405/3200

GENERAL SUMMARY: The Unemployment Insurance Act provides for the collection of contributions from most Illinois employers for deposit in the state unemployment trust fund, from which periodic cash benefits are paid to covered workers who are temporarily without employment. Most employers are required to pay contributions to the fund if they (1) pay at least \$1,500 in wages in any calendar quarter in the current or preceding calendar year, or (2) have at least one employee on some portion of a day in each of 20 or more calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Any agricultural employing unit which (1) paid cash wages of \$20,000 or more for agricultural services during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for any length of time in 20 or more calendar weeks in the current or preceding calendar year, is required to pay unemployment insurance contributions to the state fund. Contributions are computed on the first \$12,960 in wages paid by the employer to each employee during the calendar year, using an employer-specific tax rate determined annually by the state administering agency.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other jobless worker, is generally eligible for UI benefits if the state agency finds that the worker (1) has registered for work, (2) has filed a claim for benefits (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim, been paid wages for insured work equal to not less than \$1,600, at least \$440 of which must have been earned outside the peak-earnings quarter.

AMOUNT OF BENEFITS — With respect to any week of unemployment, an eligible claimant's weekly benefit amount is generally equal to 47 percent of the worker's prior average weekly wage (defined as total insured wages in the two quarters of the base period when wages were highest, divided by 26), but not to exceed 47 percent of the statewide average weekly wage. The actual sum payable to the claimant for the week is the weekly benefit amount (plus applicable dependents' allowances, explained below), minus that part of any wages earned that week in excess of 50 percent of the claimant's weekly benefit amount.

DEPENDENTS' ALLOWANCE — In the case of an eligible claimant with a non-working spouse, UI benefits will be increased by 9 percent of the worker's prior average weekly wage, provided that the total amount payable does not exceed 57 percent of the statewide average weekly wage. For a claimant with a dependent child or children, basic benefits are augmented by an amount equal to 17.2 percent of the worker's prior average weekly wage, up to a total benefit of 65.2 percent of the statewide average weekly wage.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Illinois Department of Employment Security, Springfield, Illinois 62702 (773-412-8427).* The Department both enforces the collection of unemployment insurance contributions from employers subject to the Act and administers UI claims and benefit payments. Applications for unemployment benefits may be made at any local Employment Security office, or online at www.ides.illinois.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 305/1 - 305/30

GENERAL SUMMARY: The Workers' Compensation Act requires most classes of employers in Illinois to insure the payment of medical expenses and income benefits to their employees who are injured on the job, by (1) filing an application with the state as a self-insurer, (2) furnishing a bond or other security guaranteeing payment by the employer of the required compensation, or (3) purchasing a prescribed policy of workers' compensation insurance.

Employers whose workers are fully insured for compensation benefits through one of these three options are not liable for damages stemming from injury or death to any worker in a job-related accident. At the same time, the Act provides covered workers with a state-supervised claims process which expedites the payment of benefits to a worker or a worker's surviving dependents without the need for court action and without regard to questions of negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: Every agricultural employer in Illinois who employed at least 400 worker-days of agricultural labor (other than immediate family members) in all four calendar quarters of the preceding calendar year is subject to the Workers' Compensation Act. Farmworkers employed by such agricultural establishments are generally entitled to workers' compensation benefits in the event of on-the-job injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Illinois Workers' Compensation Commission, Chicago, Illinois 60601* (312-814-6611). The Commission is charged with administering the Workers' Compensation Act and in that role is responsible for assuring that subject employers comply with the insurance or self-insurance obligation for the protection of their workers. A worker who suffers an accident on the job must notify the employer as soon as practicable, but no later than 45 days after the accident takes place. The employer is responsible for assuring the payment of compensation benefits to eligible claimants and must report to the Commission all occurrences which result in the loss of more than 3 scheduled workdays and indicate what benefits have been provided to each such injured worker.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 310/1 - 310/27

GENERAL SUMMARY: The Workers' Occupational Diseases Act protects most workers in Illinois and their families against financial hardship caused by any disease arising out of and in the course of employment, or which has become aggravated and disabling as a result of on-the-job exposure. Employers subject to this law must obtain a prescribed insurance policy or provide other acceptable security separate and distinct from the insurance or security required under the Workers' Compensation Act, guaranteeing the payment of (1) cash income benefits, (2) medical, surgical, hospital and rehabilitation care, (3) burial costs, and (4) other required benefits to employees whose disability, impairment, disfigurement or death is caused by an occupational disease.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for agricultural enterprises which used less than 400 worker-days of agricultural labor in all four calendar quarters of the preceding calendar year, farm operators and other agricultural establishments must obtain occupational disease compensation insurance or post equivalent security with the state on behalf of their workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Illinois Workers' Compensation Commission, Chicago, Illinois 60601* (312-814-6611). The Commission has authority to inspect employer payroll records and related documents to ascertain employers' liability to provide coverage under the Act and to assure that subject employers have complied with the Act's coverage requirements. Notice of disablement arising from occupational disease must be given to the employer as soon as practicable after onset of the disease or symptoms. The employer is responsible for assuring payment of benefits to eligible claimants and must report to the Commission all occupational disease disabilities and the amount of compensation benefits provided in each such case.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENCY ACT

STATUTORY CITATION: 225 Ill. Comp. Stat. §§ 515/0.01 - 515/15

GENERAL SUMMARY: Among other provisions, the Private Employment Agency Act contains preconditions on the recruitment of migrant farmworkers by private employment agencies in Illinois. In addition to forbidding any employment agency from operating without a state-issued license, the law requires disclosure of certain information regarding terms of employment and worker protections prior to commencement of farmworker recruitment activities.

PROVISIONS APPLICABLE TO AGRICULTURE

STATEMENT OF EMPLOYMENT CONDITIONS — No private employment agency may recruit any migrant farmworker for any farm employer unless the agency first files a statement with the state labor department on a prescribed form disclosing the terms and conditions of the job and the existence of any strike or similar concerted labor activity at the job site. A copy of the statement, in English and the language in which the worker is fluent, must be given to each worker by the private employment agency prior to recruitment.

SUMMARY OF EMPLOYMENT LAWS — Along with the statement of employment conditions, a private employment agency recruiting migrant farmworkers must also provide each recruited worker with a written summary of state employment laws relevant to the pending employment. The law summary, in English and the language in which the worker is fluent, must at a minimum include an explanation of the provisions governing payment of wages, wage assignments, wage deduction orders, and migrant labor camps.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for a private employment agency to retaliate or discriminate in any other way against a worker for having filed a complaint, given information, testified or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). In addition to its employment agency licensing function under this law, the Department is responsible for monitoring the activities of such agencies and for investigating reported or suspected violations. Complaints against a licensee may be made to the Department orally or in writing. Penalties against agencies found in violation include license suspension or revocation, as well as criminal fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PUBLIC EMPLOYMENT OFFICE ACT

STATUTORY CITATION: 20 Ill. Comp. Stat. §§ 1015/0.01 - 1015/15

GENERAL SUMMARY: The Public Employment Office Act establishes a system of free public employment offices in Illinois, and among other provisions prescribes practices for the fair, effective matching of job applicants with available job openings. The public employment office law includes explicit restrictions on Illinois employers recruiting migrant agricultural workers.

SPECIFIC TERMS AND CONDITIONS

STATEMENT OF EMPLOYMENT CONDITIONS — No employer in Illinois may utilize the state employment service to recruit migrant farmworkers unless the employer files a statement with the state agency disclosing the terms and conditions of the employment and the existence of any strike or other concerted labor action by the employer's workers at the proposed job site. A copy of the statement, in English and any other language in which the worker is fluent, must be given to each farmworker by the employer prior to recruitment, and must also be posted by the employer in a conspicuous location at the worker's job site or place of residence.

SUMMARY OF EMPLOYMENT LAWS — Each migrant farmworker recruited for employment must be furnished with a written summary of all state laws relevant to the worker's employment, including, at a minimum, the provisions regarding wage payments, wage assignments, wage deduction orders, and migrant labor camps. The summary must be in English and any other language in which the worker is fluent.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Illinois Department of Employment Security, Springfield, Illinois 62702 (773-412-8427). The Department operates the state's system of free public employment offices, and in that role must assure that job orders from employers seeking qualified workers comply with state and federal labor standards. After notice and opportunity for a hearing, an employer who fails or neglects to furnish the statements required under these provisions may be denied future use of the public employment service. In addition, the Department is obligated to notify the state attorney general of all violations of these provisions for possible criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

ILLINOIS PESTICIDE ACT

STATUTORY CITATION: 415 Ill. Comp. Stat. §§ 60/1 – 60/30

RELATED REGULATIONS: Ill. Admin. Code Title 8, Part 250

GENERAL SUMMARY: With the intent of minimizing adverse effects on the environment and preventing injury to human and animal life, the Illinois Pesticide Act regulates the labeling, distribution, use and application of pesticides in the state. Among other protective measures, the Act requires the certification and licensing of pesticide applicators and operators, defines a multitude of unlawful acts involving pesticides, and authorizes administrative adoption of specific standards necessary to assure safety in the use of pesticide products.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING —

Commercial Applicators — No one who owns or manages a pesticide application business may purchase, use or supervise the use of any pesticide without an annually renewable commercial applicator license issued by the state. Among other licensing prerequisites, a commercial applicator must be certified as having successfully demonstrated competence and knowledge regarding pesticide use; recertification for competence is required at least once every 3 years. Commercial applicator license applicants must also present evidence of financial responsibility, protecting persons who may suffer personal injury or property damage as a result of the applicant's pesticide operations, by posting a \$50,000 surety bond or purchasing a liability insurance policy providing coverage of at least \$100,000 for bodily injury and property damage, with an annual aggregate of not less than \$500,000.

Licensed Operators — No one employed to apply pesticides under the direction of a licensed commercial applicator may use any pesticide without a pesticide operator license. Among other conditions, a license may not be granted unless the operator is certified as to competence and knowledge regarding the use and application of pesticides.

Private Applicators — Farm operators may not apply or supervise the application of any restricted pesticide on their own crops without being certified as private applicators. Like commercial applicators, private applicators must be certified as competent and knowledgeable concerning pesticide use and must meet other licensing requirements prescribed in state regulations.

UNLAWFUL ACTS — Among many others, the following practices are violations of the Act:

- Application of pesticides in a faulty, careless or negligent manner.
- (2) Use of a pesticide in a manner contrary to the product label.
- (3) Failure to keep required records or file required reports.
- (4) Handling, storing, using or disposing of pesticides or used pesticide containers in a way that would endanger human life, the environment, or food, feed or other products.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Regulation Division, Illinois Department of Agriculture, Springfield, Illinois 62794 (217-785-8312). The state Department of Agriculture has general responsibility for enforcing the Act, and more particularly as it applies to the use of pesticides in the production, storage and transportation of agricultural commodities and the use of pesticides applied by agricultural equipment. Representatives of the Department are authorized to enter public and private premises (1) to determine the facts in complaints of pesticide injury, misuse, mishandling or reported excessive pesticide exposure, (2) to observe pesticide use, and (3) to sample pesticides being applied and sample plants and soil being treated. The Department may bring action in the appropriate court to enjoin a violation or threatened violation of any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Illinois Environmental Protection Agency, Springfield, Illinois 62794 (217-782-3397).* This agency enforces those sections of the Act intended to preserve air and water quality and prevent unreasonable contamination of land resources.

TOXIC SUBSTANCES DISCLOSURE TO EMPLOYEES ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 255/1 - 255/20

GENERAL SUMMARY: Under the Toxic Substances Disclosure to Employees Act, most employers in Illinois have a duty to give each employee a notice of potential exposure to toxic substances (including pesticides and other agricultural chemicals) at or near the workplace which pose known or suspected health hazards and which may cause death or serious physical harm to the worker. The Act generally applies to all employers with 5 or more full-time employees in the state, or with 20 or more full- or part-time employees anywhere and at any time throughout the year.

SPECIFIC TERMS AND CONDITIONS

MATERIAL SAFETY DATA SHEETS — For each toxic substance used, produced or stored in a place of employment to which workers may be exposed, the employer must obtain a material safety data sheet from the manufacturer or supplier. The material safety data sheet is a document which contains, among other information, (1) the chemical and common names of the substance, (2) its physical and chemical characteristics, (3) the associated physical hazards, (4) the known health effects of exposure, including signs and symptoms of exposure, (5) the known primary route of exposure, (6) the federal permissible exposure limit, if any, (7) precautions for safe handling and use, (8) recommended engineering controls, (9) recommended work practices, (10) recommended personal protective equipment, (11) emergency first-aid measures, and (12) procedures for cleaning up leaks or spills. The employer must maintain copies of the required material safety data sheets and ensure that they are accessible to employees for at least 10 years after each substance is no longer used, produced or stored at the workplace.

EMPLOYEES' RIGHT TO INFORMATION — Every employee of an employer subject to the Act has a right to receive a copy of all material safety data sheets in the employer's possession within 10 days of the worker's written request. The employer must advise the worker in writing of any hazardous substance in the workplace for which no data sheet is available, must request the missing data from the supplier within 10 days, and must mail the information to the worker within 10 days following receipt from the supplier.

POSTING AND LABELING — Employers are required to post a sign at the workplace informing employees of their rights under the Act. Moreover, employers must either affix a label to each container of a toxic substance showing its chemical name and appropriate hazard warnings, or post signs or operating instructions to convey the required information.

EMPLOYEE EDUCATION AND TRAINING — The Act requires subject employers to provide their work force with an education and training program with respect to all toxic substances to which employees are routinely exposed in the course of their work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2800). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 105/1 - 105/15

GENERAL SUMMARY: The Minimum Wage Law establishes a state minimum wage, currently \$8.25 an hour for covered adults and \$7.75 an hour for covered workers under the age of 18, generally applicable to individuals who work for an employer with 4 or more employees. The law also dictates that employers observe certain recordkeeping and posting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — With two major exceptions, outlined below, every employer who used more than 500 worker-days of agricultural labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any similar combination) is required to pay adult workers no less than \$8.25 for every hour of labor. Likewise, most workers under 18 years of age employed by such an employer are entitled to receive at least \$7.75 an hour.

EXCEPTIONS — The Minimum Wage Law does not apply to agricultural workers in the following categories:

- (1) Any worker who (a) is employed as a hand-harvest laborer on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) commutes daily from his or her permanent place of residence to the worksite, and (c) was employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Any worker 16 years of age or younger who (a) is employed as a hand-harvest laborer on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) is employed on the same farm as his or her parent, or person standing in the place of a parent, and (c) is paid the same piece rate as workers over the age of 16 are paid on the same farm.

RECORDKEEPING — Illinois employers are required to keep and retain for at least 3 years true and accurate payroll records with respect to each employee covered by the minimum wage. Records must include, at a minimum, (1) the name, address and occupation of each worker, (2) the wage rate, (3) the amount paid each pay period to each worker, and (4) the hours worked each day in each workweek by each worker.

POSTING — Subject employers must post a summary of the Minimum Wage Law and the associated regulations in a conspicuous location accessible to covered employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). The Department is charged with the responsibility to investigate and gather data regarding the wages, hours and other conditions of employment in agriculture and other industries subject to the Minimum Wage Law. Agents of the Department may enter all workplaces in the state, inspect payroll records, question employees, and investigate any matter pertaining to reported or suspected violations. A worker who has not received full wages in accordance with the law may file a claim with the Department. In addition to liability for unpaid wages, an employer found to have failed to pay the lawful minimum wage, or to make and keep required records, is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Employees may elect to enforce their right to the minimum wage in court, through legal counsel of their own choosing. A worker paid less than the wage to which he or she is entitled under this act may generally recover in a civil action the unpaid wages, plus punitive damages in the amount of 2 percent of the unpaid wages per month or an amount equal to the unpaid wages, whichever is less.

WAGES OF WOMEN AND MINORS ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 125/0.01 - 125/17

GENERAL SUMMARY: The Wages of Women and Minors Act declares it to be against public policy for employers to employ any woman or minor at an oppressive and unreasonable wage. The statute grants the state labor department authority to investigate the wages of women and minors in any covered occupation in Illinois, and to adopt minimum fair wage rates applicable to women or minors in that field if investigation finds that existing wages are less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wages of Women and Minors Act does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 105/1 - 105/15

GENERAL SUMMARY: In addition to its minimum wage and anti-discrimination provisions, the Minimum Wage Law requires most employers with 4 or more employees to compensate each employee at a rate not less than $1^1/2$ times the worker's regular rate of pay for every hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision of the Minimum Wage Law **does not apply** to employers of agricultural labor with respect to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ WAGES OF WOMEN AND MINORS ACT (HOURS AND OVERTIME)

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 125/0.01 - 125/17

GENERAL SUMMARY: As it may with respect to wage rates, the state labor department may investigate working hours and related employment conditions in most occupations in Illinois, and, among other remedies, may adopt regulations requiring overtime pay for women and minors in any covered occupation where investigation reveals evidence of oppressive and unreasonable wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wages of Women and Minors Act does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ EIGHT HOUR WORK DAY ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 145/0.01 - 145/2

GENERAL SUMMARY: With some exceptions, the Eight Hour Work Day Act declares that on and after May 1, 1867, eight hours of labor between the rising and the setting of the sun constitute a legal day's work, where there is no special contract or agreement to the contrary.

PROVISIONS APPLICABLE TO AGRICULTURE: The Eight Hour Work Day Act does not apply to farm employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

ONE DAY REST IN SEVEN ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 140/1 - 140/9

GENERAL SUMMARY: The One Day Rest in Seven Act grants workers in Illinois at least one day of rest a week and daily meal periods.

PROVISIONS APPLICABLE TO AGRICULTURE

DAY OF REST — The section requiring most employers to allow workers at least 24 consecutive hours of rest in every calendar week *does not apply* to employment in agriculture.

MEAL PERIODS — As are most other classes of workers in the state, agricultural employees who work or are expected to work $7^{1}/2$ continuous hours or longer on a particular day are entitled to a meal period of at least 20 minutes, beginning no later than 5 hours after the start of the workday.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). The Department has explicit authority to enforce these provisions and to prosecute violations. An employer who fails to provide for or allow a meal period as required is subject to a fine of from \$25 to \$100 for each offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

ILLINOIS WAGE PAYMENT AND COLLECTION ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 115/1 - 115/15

GENERAL SUMMARY: The Illinois Wage Payment and Collection Act regulates wage payments by most employers in the state (including farm operators and other agricultural establishments), prescribing standards related to pay periods, paydays, final compensation, deductions from wages, pay statements, recordkeeping and disclosures. The Act also establishes procedures for state-assisted collection of unpaid wages.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Employers in Illinois are generally required to pay their workers' wages at least twice a month. All wages earned by an employee during a semi-monthly or bi-weekly pay period must be paid no later than 13 days after the end of the pay period in which the wages are earned. Wages earned during a weekly pay period must be paid within 7 days of the close of the period. Workers paid daily should receive their wages on the same day they are earned, but in no case more than 24 hours later.

FINAL COMPENSATION — Every employer must, if possible, pay final compensation to a worker who quits, or is discharged or laid off, at the time of separation, but in no case later than the worker's next regularly scheduled payday.

MEDIUM OF PAY — Workers' wages must be paid (1) in lawful U.S. currency, (2) by check, redeemable upon demand and without discount at a bank or comparable institution readily available to the employee, (3) by direct deposit to a bank account of the employee's choosing, or (4) by a payroll card that meets strict state-prescribed requirements.

DEDUCTIONS — With very narrow exceptions, employers may not make wage deductions unless such deductions are required by law, intended for the benefit of the employee, executed in response to a valid wage assignment or wage deduction order, or made with the express written consent of the employee.

PAY STATEMENTS — Every employer is required to furnish each worker with an itemized statement of deductions made from the worker's pay for each pay period.

RECORDKEEPING — Employers must keep a record of the names and addresses of all employees and of the wages paid each payday.

DISCLOSURES AND POSTING — Employers must notify each worker, at the time of hiring, as to the rate of pay and the time and place of payment. Whenever any such condition changes, the worker must be notified thereof in advance. Employers must also keep posted at each regular place of business, at a location easily accessible to the workforce, one or more notices indicating the regular paydays and the place and time of payment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). It is the duty of the Department to monitor employer compliance with the Act and to institute penalty actions when violations are documented. A worker who has not been paid all or any part of wages earned may file a claim with the Department, which must investigate the circumstances of the case and advise the claimant of its findings. The Department is authorized to accept assignment of wage claims and prosecute collection actions for persons financially unable to do so when such claims appear valid and enforceable in the courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker with a claim for unpaid wages may take legal action to collect the claim directly, using private counsel or a public legal service provider.

ILLINOIS WAGE ASSIGNMENT ACT

STATUTORY CITATION: 740 Ill. Comp. Stat. §§ 170/01 - 170/11

GENERAL SUMMARY: The Illinois Wage Assignment Act prevents creditors, in concert with employers, from collecting debts through wage assignments except under conditions and procedures prescribed in the Act, which protects agricultural workers to the same extent as their non-agricultural counterparts.

SPECIFIC TERMS AND CONDITIONS

WAGE ASSIGNMENT FORMAT — Among other limitations, no assignment of wages is valid unless it is made in a written instrument signed by the wage earner and identifying the worker, the employer, the amount of money loaned or the price of the goods sold, the interest rate to be paid, and the date payments are due.

DEMANDS BY CREDITORS — A demand by a creditor may not be served on an employer for a worker's wages under a wage assignment unless (1) there has been a default of more than 40 days in payment of the indebtedness involved and the default has continued to the date of demand, (2) the demand, in prescribed form, contains a correct statement as to the amount the worker is in default, and (3) not less than 20 days before serving the demand, a notice of intent to make the demand has been served on the worker and a copy has been sent by certified mail to the employer.

LIMITATION ON AMOUNTS — The amount of wages that may be collected under a lawful wage assignment for any workweek may not exceed the lesser of (1) 15 percent of the worker's gross earnings that week, or (2) the amount by which disposable earnings that week exceed 45 times the federal or state minimum wage, whichever is greater (at the current state minimum of \$8.25, that portion of net pay above \$371).

EXCEPTIONS — The provisions of the Wage Assignment Act do not apply to court-ordered withholding of income under various state laws providing for the support of a child or maintenance of a spouse.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is a misdemeanor for an employer to fire or suspend an employee because the employee's earnings have been subjected to assignment for indebtedness.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who has had debts collected through wage deductions which do not conform to the process described above should consult an attorney. A person who wrongfully serves a notice of intent to make a wage assignment demand, wrongfully causes such a demand to be served, or fails to release a demand is liable to the worker and the employer for damages.

■ ILLINOIS INCOME TAX ACT

STATUTORY CITATION: 35 Ill. Comp. Stat. §§ 5/101 - 5/1701

GENERAL SUMMARY: The Illinois Income Tax Act imposes a tax on the net income (including earnings from employment) of most residents and wage earners in the state, and compels every employer in Illinois who is required to withhold federal income tax from a worker's wages to deduct and withhold state income tax on the worker's wages as well, and to forward withheld taxes to the state for credit against the worker's state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Illinois must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

TOLL-FREE TELEPHONE SERVICE — For taxpayer assistance, the Department of Revenue may be reached without charge from anywhere in the state, at 800-732-8866.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Illinois Department of Revenue, Springfield, Illinois 62794. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Indiana

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Ind. Code §§ 20-33-3-1 - 20-33-3-43

GENERAL SUMMARY: Indiana's child labor laws limit the employment of minors under the age of 18, by (1) generally establishing a minimum age of 14 for lawful employment in the state, (2) restricting the working hours of minors in covered occupations, (3) requiring the issuance of an employment certificate as a prerequisite for hiring a minor in most occupational categories, and (4) prohibiting child labor in hazardous occupations.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to the 14-year age threshold applicable to most other industries, children as young as 12 are permitted to engage in agricultural employment.

WORKING HOURS — As long as work is confined to non-school hours, the restrictions on the time of day and maximum hours during which youth under 17 may be employed *do not apply* to children employed in farm labor.

REST BREAKS — The provision requiring employers to provide workers under 18 with one or two rest breaks totaling at least 30 minutes during work periods of 6 hours or more *does not apply* to children engaged in farm labor.

EMPLOYMENT CERTIFICATES — Provided employment occurs only during the hours when the child is not required by law to be in school, the requirement for an employment certificate authorizing a minor to work *does not apply* to employment in farm labor.

HAZARDOUS OCCUPATIONS — No child under the age of 18 may be employed in an occupation deemed hazardous to minors by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, & Related Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Child Labor, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655). Authorized inspectors and agents of the Department may visit and inspect all establishments affected by these provisions. In any case where a child is found to be unlawfully employed, the Department may request the state attorney general to assist the local prosecuting attorney in the prosecution of the offending employer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The local school corporations, through guidance counselors, school social workers or attendance officers designated in writing by the respective school superintendents are responsible for issuing employment certificates for youth in the regulated age range seeking employment in an occupation for which such a certificate is required.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ind. Code §§ 20-33-2-1 - 20-33-2-47

GENERAL SUMMARY: The compulsory school attendance law provides generally that each child who is at least 7 years of age and has not reached the age of 18 must attend either a public school or some other school which is taught in the English language, for the period of time each year during which the local public schools are in session. It is unlawful for a parent to fail to ensure that his or her child attends school as required.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to children in the affected age group, and to their parents, without regard to occupational classification or employment status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance law is enforced by the local school corporations, through attendance officers appointed for that purpose. Attendance officers are authorized to visit the homes of children who are absent from school and to visit workplaces where children are employed, to investigate suspected or reported violations of the law. At the direction or with the approval of the superintendent of schools, an attendance officer may bring suit in the appropriate court to enforce compliance with any provision of the compulsory attendance law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Student Services, Indiana Department of Education, Indianapolis, Indiana 46204 (317-232-6610). Among other functions under this law, the Department is authorized to set qualifications for local attendance officers and to design and maintain a system of attendance reports, records and forms necessary for enforcement of compulsory attendance.

CIVIL RIGHTS

INDIANA CIVIL RIGHTS LAW

STATUTORY CITATION: Ind. Code §§ 22-9-1-1 - 22-9-1-18

GENERAL SUMMARY: The Indiana Civil Rights Law forbids, among other practices, employment discrimination based on race, religion, color, sex, disability, national origin, ancestry, or veteran status. The law generally applies to any employer in the state — including an agricultural establishment — that has 6 or more employees.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL ACTS — Employers are prohibited from practicing employment discrimination by (1) excluding a person from equal employment opportunities because of race, religion, color, sex, disability, national origin, ancestry, or veteran status, (2) failing to employ an applicant on the basis of the applicant's race, religion, color, sex, disability, national origin, ancestry, or veteran status, (3) failing to reasonably accommodate an employee with a disability, (4) failing to accommodate an employee for bona fide religious practices, or (5) creating or failing to take corrective action to address a hostile work environment or quid-pro-quo sexual harassment. Comparable acts of employment discrimination by employment agencies and labor organizations are also forbidden.

EXCEPTIONS — It is not unlawful for an employer to hire employees, for an employment agency to classify or refer job applicants, or for a labor organization to classify its membership or refer any member for employment, on the basis of sex in those instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise involved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Civil Rights Commission, Indianapolis, Indiana 46204 (317-232-2600; toll-free 800-628-2909). The Commission may receive written complaints of violations of the Civil Rights Law and will conduct a full investigation of the facts surrounding the complaint. At the completion of the investigation, a determination is issued indicating whether or not there is cause to believe discrimination has occurred. The complaint must be filed within 180 days from the date of the occurrence of the alleged discriminatory practice. The Commission may hold hearings, subpoena witnesses and documents, and take testimony. If the Commission finds that a person has engaged in unlawful discrimination, it may take appropriate remedial action, including issuance of an order that the offending party cease and desist from the discriminatory practice and restore the complainant's losses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers have the right to enforce the Civil Rights Law in court rather than through administrative action by the Civil Rights Commission. However, both the employee and the employer involved in the complaint must agree in writing to have the matter decided in court.

EMPLOYMENT DISCRIMINATION AGAINST DISABLED PERSONS LAW

STATUTORY CITATION: Ind. Code §§ 22-9-5-1 - 22-9-5-27

RELATED REGULATIONS: 910 Ind. Admin. Code §§ 3-3-1 - 3-3-18

GENERAL SUMMARY: Chapter 5 of the state civil rights laws makes it unlawful for an employer with at least 15 employees for each working day in 20 or more calendar weeks this year or last to discriminate against a qualified individual with a disability, on the basis of the individual's disability, in regard to job application procedures, hiring, advancement, firing, training, or other terms and conditions of employment. Similar prohibitions apply to employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to agricultural employers and protects agricultural workers to the same extent as employers and employees in other industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful to discriminate against a person for having made a complaint, testified, participated in an investigation, or exercised any other right provided by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Civil Rights Commission, Indianapolis, Indiana 46204 (317-232-2600; toll-free 800-628-2909).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MINIMUM WAGE LAW OF 1965 (WAGE DISCRIMINATION)

STATUTORY CITATION: Ind. Code § 22-2-2-4(d)

GENERAL SUMMARY: Among its other protections, the Minimum Wage Law generally prohibits Indiana employers (a) who have 2 or more employees, and (b) who are not subject to the federal minimum wage, from discriminating on the basis of sex, by paying workers of one sex wages that are lower than those paid to workers of the opposite sex at the same workplace for equal work, on jobs whose performance requires equal skills, effort and responsibility and which are performed under similar working conditions.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law, and hence the wage discrimination provision, does not apply to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ind. Code § 22-9-2-1 - 22-9-2-11

GENERAL SUMMARY: With few exceptions, it is unlawful for an employer to dismiss from employment, or to refuse to employ or rehire, any person who is at least 40 years of age but below the age of 75 solely because of the person's age.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law **does not apply** to anyone employed as a farm laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

■ INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 - 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act imposes on the state's employers the general duty to establish and maintain working conditions that are reasonably safe and healthful for their employees and free from recognized hazards that could cause death or serious physical harm to the workforce. The Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards in Indiana applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state commission has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Indiana's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety). However, except in response to an employee's complaint, the Act prohibits the state enforcement agency from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605). In response to a worker's complaint, IOSHA personnel may enter and inspect a workplace to enforce state occupational safety and health standards. If an inspection reveals a violation of the Act or the associated regulations, the Department may issue a written safety order, describing the infractions involved and setting a deadline for abatement. Failure to respond to a safety order, as well as commitment of the violation itself, is grounds for assessment of a civil money penalty by the Department. A person who knowingly violates the Act is also subject to criminal prosecution. Worker complaints may be filed online, at www.in.gov/dol/2733.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

AGRICULTURAL LABOR CAMPS LAW

STATUTORY CITATION: Ind. Code §§ 16-41-26-1 - 16-41-26-14

RELATED REGULATIONS: 410 Ind. Admin. Code §§ 6-9-1 - 6-9-6

GENERAL SUMMARY: Article 41, Chapter 26 of the state public health laws prohibits operation of any agricultural labor camp in Indiana without a state-issued permit, and requires labor camp operators to comply with prescribed standards of construction, equipment and operation. An agricultural labor camp is defined as one or more buildings or structures, tents, trailers or vehicles established, operated, or used as living quarters for 5 or more adult seasonal or temporary workers engaged in agricultural activities, including related food processing.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No person, firm or association may operate an agricultural labor camp in Indiana without first obtaining a permit from the state to do so, and unless the permit is in full force and is kept posted in the camp to which it pertains. A labor camp must be inspected within the 60-day period immediately prior to occupancy, and a permit may not be issued without an inspection. In general, a permit is valid for one year from the date of issuance.

HOUSING STANDARDS — As a prerequisite to the issuance or renewal of a permit, a camp must meet detailed standards set by the state agency for the protection, safety and welfare of the residents of such facilities. Among the principal provisions with which each camp must comply are the following:

Housing Site — The site must be located and laid out so as to prevent health and safety hazards.

Water Supply — An adequate and convenient supply of water which meets state quality standards is required at all times, for cooking, drinking, bathing and laundry purposes. Common drinking cups are not permitted.

Waste Disposal — There must be adequate facilities for effective disposal of human waste. Where a public sewer system is available, the camp's waste disposal facilities must be connected to it.

Structures — Housing units must be structurally sound, be in sanitary condition, and offer effective protection against the elements. Living areas must comply with prescribed minimum floor space and ceiling height standards. Separate sleeping accommodations for each sex or each family are required. Ceilings in living areas must be at least 7 feet high.

Screening — All outside doors, windows and other openings must be properly screened, and screen doors must be self-closing.

Heating — Any time a camp is operated between August 31 and June 1, heating equipment capable of maintaining a temperature of at least 65 degrees F. in habitable rooms must be provided. Portable heaters other than those powered by electricity are forbidden, and any stoves or other heating devices that use combustible fuel must be safely installed and properly vented.

Electricity and Lighting — All housing sites must have electric service. Regulations require an adequate number of lighting fixtures and electrical outlets, safely wired and maintained, in each habitable room and common area.

Toilets — In general, there must be no less than one toilet for every 15 occupants, and all such facilities must be constructed, located and maintained so as to prevent any nuisance or public health hazard. Except in individual family units, separate toilet accommodations for men and women are required. Toilet facilities must be located within 200 feet of each living unit, but privies may be no closer than 50 feet from any living, cooking or eating area.

Bathing, Laundry, and Handwashing Facilities — Adequate numbers of bathing and handwashing facilities, supplied with hot and cold water under pressure, must be provided and located within 200 feet of each living unit.

Occupants must also have access to similarly equipped laundry facilities, in prescribed minimum numbers.

Cooking and Eating Facilities — Camps must have safe, sanitary cooking and eating facilities. Either in individual living units or in a common area, there must be cook stoves, refrigeration, food storage and preparation space, adequate lighting and ventilation, and seating and eating arrangements which meet standards prescribed in the regulations.

Sleeping Facilities — A bed, cot or bunk, supplied with a clean mattress, must be provided for each occupant. Any bedding provided by the camp operator must be clean and sanitary.

Garbage and Other Refuse — Camp operators must provide covered, water-tight containers for the storage of garbage and other refuse adjacent to each shelter and service building. At least twice a week, or when containers are full, garbage must be collected and cans must be cleaned.

Safety and First Aid — Structures must be built and maintained in accordance with state and local fire and safety laws, and there must be exits in sufficient numbers and of proper design to permit alternate means of escape in case of fire. Camp operators are required to furnish fire extinguishing and first-aid equipment that meets specified standards, and occupants must have reasonable access to a telephone for emergency use. The telephone number of the nearest fire department and ambulance service must be posted near the telephone, along with instructions — in English and in the occupants' native language — for reporting emergencies. No flammable materials (other than those needed for current household use) may be stored in or around rooms used for living purposes, and agricultural pesticides and toxic chemicals may not be stored in the housing area.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Public Health Division, Indiana State Department of Health, Indianapolis, Indiana 46204 (317-233-7183). This agency is responsible for issuing agricultural labor camp permits and for conducting related inspections. Authorized representatives of the Department may enter and inspect any labor camp at any reasonable hour and may investigate whatever facts, conditions and practices are necessary to assure compliance with the law and its associated regulations. Upon confirming a violation, the Department may serve the camp operator with an order requiring compliance and may seek injunctive relief in state circuit court if corrective action is not taken within the timeframe specified in the order. Failure to observe the labor camp standards or any other provision of this law may also result in revocation of the camp permit and criminal prosecution of the camp operator.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ INDIANA EMPLOYMENT AND TRAINING SERVICES ACT (UNEMPLOYMENT COMPENSATION)

STATUTORY CITATION: Ind. Code §§ 22-4-1-1 - 22-4-39.5-5

GENERAL SUMMARY: The Indiana Employment and Training Services Act requires employers in the state to pay contributions to the state unemployment insurance benefit fund, out of which weekly cash payments are made available to eligible workers who are temporarily unemployed. With some exceptions, employers are subject to UI taxes if they (1) employ one or more workers, or (2) paid at least \$1 in wages in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural employing units that (1) paid cash remuneration of \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in 20 or more different calendar weeks in the current or preceding calendar year, must pay contributions to the state employment security fund on behalf of their workers. In general, the amount of contributions payable is a function of the employer's unemployment insurance tax rate, which is determined each year by the state administering agency and applied against the first \$9,500 in wages paid that year to each of the employer's workers.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like most other jobless workers in Indiana, is generally eligible to receive unemployment compensation in a given week if he or she (1) has filed a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work, available for work, and making an effort to secure full-time work, (4) participates in required re-employment services and eligibility assessment activities, (5) has been unemployed for a waiting period of one week, and (6) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$4,200 from covered employment — at least \$2,500 of which must have been earned in the last two quarters — and earned total wages amounting to at least 11/2 times the wages earned in the one quarter when earnings were highest.

Not later than the fourth week after the week a worker begins receiving unemployment benefits, he or she must schedule participation in an orientation to the services available through the Department's one-stop centers, and must complete the orientation not later than the sixth week.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is normally equal to 47 percent of the worker's average weekly wage over the four-quarter base period, up to a maximum amount of \$390.

SEASONAL WORKER PROVISIONS — With respect to a claim filed by a worker who has earnings from an employer regarded by the state agency as a seasonal employer, such seasonal earnings may be used to determine eligibility for unemployment benefits only if the claim is filed within the employer's designated normal seasonal employment period. Eligibility and benefits for a worker with seasonal wage credits who files a UI claim outside the employer's normal seasonal operating period are based entirely on the amount of wages earned from other insured employment, if any, during the four-quarter base period.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Indiana Department of Workforce Development, Indianapolis, Indiana 46204 (317-232-7676). This agency administers all aspects of the state unemployment insurance system, including determination of employer liability for UI contributions, processing of UI claims, adjudication of appeals, and payment of benefits. An application for benefits may be filed at any WorkOne Career Center, or online at https://uplink.in.gov/CSS/CSSLogon.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ind. Code §§ 22-3-1-1 - 22-3-6-3

GENERAL SUMMARY: Indiana's workers' compensation law compels most employers in the state to insure the payment of compensation to their employees and employees' dependents in the event of personal injury or death by accident arising out of and in the course of employment. An employer may meet this obligation by purchasing a prescribed policy of workers' compensation insurance or obtaining a certificate from the state authorizing the employer to carry the risk without insurance. Employers who comply by either means are protected against any further liability for on-the-job injury or death of a worker. At the same time, a worker who is injured while working for such an employer is generally eligible for medical payments and income benefits without regard to the question of negligence or the need for litigation and delay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law **does not apply** to farm or agricultural employers or employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Worker's Compensation Board, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKERS' OCCUPATIONAL DISEASES COMPENSATION LAW

STATUTORY CITATION: Ind. Code §§ 22-3-7-1 - 22-3-7-38

GENERAL SUMMARY: Indiana's workers' occupational diseases compensation law requires most employers in the state to provide, through prescribed workers' occupational disease compensation insurance or a state-issued certificate of self-insurance, for the payment of weekly income benefits, medical expenses, death benefits, and related compensation in the event of a worker's disablement or death by occupational disease arising out of and in the course of employment. Employers who secure the payment of such compensation are not liable to any further extent to any injured worker or the worker's survivors on account of such disablement or death, while covered workers are generally entitled to benefits under the Act without the need for court action.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' occupational diseases compensation law **does not apply** to farm and agricultural employers or their employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Worker's Compensation Board, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Ind. Code §§ 25-16-1-1 - 25-16-1-18

GENERAL SUMMARY: Indiana's employment agency law prohibits the operation of employment agencies (which may include certain farm labor contractors) without a state-issued license, defines certain unlawful agency practices, and requires licensees to observe specified recordkeeping duties.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person, firm or association may, for profit-making purposes, offer through any medium whatsoever to secure jobs or furnish labor, or give information as to where jobs or labor may be secured, without first obtaining an employment agency license from the state. Every applicant for such a license must post a \$1,000 bond, pay a \$150 annual license fee, and meet prescribed standards of business and professional integrity before a license will be granted. Unless revoked before expiration, an employment agency license remains in force for one year after the date of issuance. The licensee must keep the license, together with a copy of the employment agency law, posted conspicuously at every locale where the licensee does business.

PROHIBITED PRACTICES — Among numerous other restrictions, it is illegal for anyone operating as an employment agency or agent (1) to refer a worker to a job, or collect any fee from a worker, without having obtained a bona fide job order or offer, (2) to refer any worker to a job site where a strike or lockout is known to exist without notifying the worker of such condition, or (3) to publish or circulate any false, fraudulent or misleading notice, or give any false information or misrepresentation, concerning work or the availability of employment.

RECORDKEEPING — Every licensed agency must record, and safeguard for at least 2 years thereafter, (1) identifying information on every worker referred to or placed in employment, including the date of such referral or placement, (2) the amount of the fee received and the wage rate agreed upon, and (3) the name and address of the entity with whom the worker was placed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Special Investigation Unit, Indiana Department of Revenue, Indianapolis, Indiana 46204 (317-232-5977). The Department is responsible for processing license applications under the employment agency law and for issuing licenses to applicants meeting the eligibility standards outlined in the act. Authorized representatives of the Department may enter any place of business of any employment agent, inspect the agent's register, books and other records, and make arrests for violations of the employment agency law. A person who violates the law is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE USE AND APPLICATION LAW

STATUTORY CITATION: Ind. Code §§ 15-16-5-1 - 15-16-5-71

RELATED REGULATIONS: 355 Ind. Admin. Code §§ 4-0.5-1 – 4-7-7

GENERAL SUMMARY: Chapter 5 of the state horticultural control laws makes state certification and licensing of the applicator a prerequisite for the lawful use of most agricultural pesticides in Indiana, defines various prohibited acts and practices involving pesticide products, and authorizes administrative adoption of additional restrictions and safeguards in the use of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING —

Pesticide Businesses — Anyone who owns, operates or manages a business engaged in using any pesticide for hire must obtain a license to do so. Among other requirements, licensed pesticide businesses generally must post a bond or have liability insurance with a coverage limit of at least \$300,000 for bodily injury and property damage, to protect persons who may suffer legal damages as a result of their pesticide operations.

Commercial Applicators — No one may apply or supervise the application of restricted-use pesticides, or any pesticide when applied for hire, without a license to do so. Such a license may not be issued until the applicant has paid an annual license fee and met the competency certification requirements applicable to that class of license.

Private Applicators — No one may use or supervise the use of any restricted-use pesticide on his or her own farm, or on the farm of the person's employer, without a private applicator's permit and without first being certified as competent to do so.

PROHIBITED ACTS — The state may deny, suspend, modify or revoke, or may refuse to renew, any pesticide license or permit — and may assess a civil penalty — if it is determined that the applicant, licensee or permit-holder has committed any of the following acts, among others:

- (1) Used any registered pesticide in a manner inconsistent with its labeling, or in violation of federal or state restrictions on its use.
- (2) Operated faulty or unsafe equipment.
- (3) Operated in a careless or negligent manner.
- (4) Failed or refused to maintain required records or to make required reports, or maintained false or fraudulent records.
- (5) Used or applied pesticides without the appropriate class of license or permit, if required.
- (6) Refused to comply with regulations adopted under authority of the pesticide use and application law, or with a lawful order of the enforcement agency.
- (7) Made false or fraudulent claims misrepresenting the effect of pesticide products or methods of application.
- (8) Used pesticides known to be ineffective, or used them in amounts known to be ineffective.
- (9) Made false or misleading statements in applying for a license, or during or after an inspection.

In addition, it is illegal to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, beneficial vegetation, crops, livestock or beneficial insects.

RECORDKEEPING — All commercial applicators or their employees are required to keep records of all applications of restricted-use pesticides and preserve such records for at least 2 years. Among other information, each record must include the name and address of the customer, the name and certification number of the applicator, the date and site of the pesticide application, the crop and pest involved, the name of the product used, and the amount applied. Private applicators are subject to comparable recordkeeping requirements.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492). This office is responsible for testing, certification and licensing of commercial pesticide businesses and commercial and private applicators in Indiana, and for monitoring compliance by licensees with these provisions. The state chemist's office may warn or cite an applicator for any violation of this law and, after opportunity for hearing, may assess a civil penalty and may deny, suspend, revoke or modify any provision of a license, permit or certification. The office may also take appropriate court action to enjoin a violation or threatened violation of the law or the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 - 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Indiana's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication), but except in response to an employee's complaint, the state enforcement agency is prohibited from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605). Failure to comply with the hazard communication requirements is grounds for assessment of a civil money penalty by the Department, and a person who knowingly violates the Act is also subject to criminal prosecution. Worker complaints may be filed online, at www.in.gov/dol/2733.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

AGRICULTURAL AMMONIA LAW

STATUTORY CITATION: Ind. Code §§ 15-16-1-1 - 15-16-1-16

RELATED REGULATIONS: 355 Ind. Admin. Code §§ 3-1-1 - 3-10-6

GENERAL SUMMARY: With the aim of protecting users of such materials and safeguarding the public at large, the agricultural ammonia law regulates facilities where anhydrous ammonia is distributed for use as an agricultural fertilizer within the state, and authorizes the adoption of minimum safety standards covering the storage, handling, utilization and transportation of ammonia and ammonia solutions.

SPECIFIC TERMS AND CONDITIONS: Among the specific protections spelled out in the law and administrative regulations are these:

DESIGN REQUIREMENTS — Tanks and other containers used to transport anhydrous ammonia to and from the fields, or to apply ammonia to the soil, must be designed according to detailed specifications established by the state chemist. All such containers must also be properly equipped with prescribed gauges, valves, hoses and other fittings. The regulations also require that certain identifying markings and emergency information be affixed to each ammonia container.

LOCATION AND EMERGENCY INFORMATION — Ammonia containers at any permanent or satellite storage area must be located at least 400 feet from any residence, 1,000 feet from any school, and 2,000 feet from any hospital or nursing home. At all vehicle entry points at each permanent or satellite storage facility, there must be emergency response information posted, to include the name of the manager and at least one other responsible person, the telephone number of each person listed, the 911 address assigned to the location, and the phrase "Anhydrous Ammonia."

MOUNTING REQUIREMENTS — Tanks used for on-farm transportation or application of ammonia must be securely attached to the trailer, tractor or other farm vehicle on which they are mounted. Every trailer carrying an ammonia field storage tank is required to carry a container of 5 gallons or more of fresh water.

UNLAWFUL ACTS — Among other offenses defined in the law, it is illegal (1) to store, transport or use any agricultural ammonia or ammonia solution in violation of the rules and regulations adopted under the law's authority, (2) to fail to install or maintain ammonia equipment in a safe operating condition, or (3) to violate a corrective order issued by the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492). Upon confirming a violation of the agricultural ammonia law or its associated regulations, the state chemist's office, or any agent authorized by the office, may issue a written order to the owner or operator of the facility or equipment involved to correct the violation. Such an order will normally include a time limit for corrective action, but the deadline is subject to extension when circumstances warrant.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 - 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: The commission has adopted standards for the storage and handling of anhydrous ammonia. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia), but except in response to an employee's complaint, the state enforcement agency is prohibited from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indiana 96204 (317-233-3605).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

SCHOOL TRANSPORTATION LAWS (USE OF SCHOOL BUSES)

STATUTORY CITATION: Ind. Code § 20-27-9-10

GENERAL SUMMARY: Article 27, Chapter 9 of the state education laws includes an authorization for the use of public school buses for the transportation of agricultural workers under certain prescribed conditions.

SPECIFIC TERMS AND CONDITIONS: The governing body of a school corporation may permit the use of its school buses for the transportation of agricultural workers engaged in cultivating, producing or harvesting crops. Any bus used for that purpose may transport only school children, enrolled college and university students, a supervisor, and the bus driver. When used to transport farmworkers, a bus must display a sign in 4-inch letters or larger, reading "Agricultural Workers," at the front and rear of the vehicle.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school corporations, and by state and local law enforcement agencies.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

O MINIMUM WAGE LAW OF 1965

STATUTORY CITATION: Ind. Code §§ 22-2-2-1 - 22-2-2-13

GENERAL SUMMARY: Declaring that employment of workers at insufficient rates of pay threatens the health and well-being of the people of Indiana and injures the economy of the state, the Minimum Wage Law establishes a state wage floor equal to the federal minimum wage, which is currently \$7.25 an hour. The state minimum wage law generally applies to employers who have 2 or more employees and who are not otherwise required to pay the federal minimum wage.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law does not apply to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ MINIMUM WAGE LAW OF 1965 (HOURS AND OVERTIME)

STATUTORY CITATION: Ind. Code §§ 22-2-2-1 - 22-2-2-13

GENERAL SUMMARY: With some exceptions, the Minimum Wage Law prohibits employers with 2 or more employees from employing a worker for a workweek longer than 40 hours unless the worker receives overtime pay at a rate not less than 1½ times the worker's regular pay rate for all hours in excess of 40 that week.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law, and hence the overtime requirement, does not apply to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ WAGE AND HOUR LAWS (WAGE PAYMENTS)

STATUTORY CITATION: Ind. Code §§ 22-2-4-1 – 22-2-8-3

GENERAL SUMMARY: With some exceptions, Chapters 4 through 8 of the state wage and hour laws require employers to pay workers' wages at least semi-monthly or biweekly if requested by a worker, restrict wage assignments and other deductions from pay, limit the sale of merchandise by employers to employees under certain conditions, and prescribe penalties for an employer's failure to pay workers for their labor.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYROLL PERIODS — The semi-monthly wage payment provisions *do not apply* to farmers and others engaged in the business of agriculture or horticulture.

WORKER-REQUESTED DEDUCTIONS — Any deduction from wages directed by a worker is regarded as an assignment of the worker's wages. No wage assignment is valid unless (1) the assignment is in writing, signed by the employee, revocable by the employee at any time, and agreed to by the employer in writing, (2) an executed copy of the wage assignment instrument is given to the employer within 10 days of its execution, and (3) the assignment is for the purpose of paying insurance policy premiums, documented loans made to the employee by the employer, assessments by an employee benefit plan, or similar authorized purposes.

ASSIGNMENTS TO WAGE BROKERS — Any person, firm or association (other than the wage earner's employer) that loans money to a wage earner on the security of a wage assignment is regarded as a wage broker, and such transactions are subject to the following limitations, among others:

Amount and Term of Assignment — A wage assignment by a wage earner to any wage broker is unenforceable, and may not be recognized by an employer, unless it is for a fixed portion of the worker's earnings over a period not exceeding 30 days immediately following the date of the assignment.

Interest — No wage broker may ask, demand or receive any compensation or interest in excess of 8 percent per annum for use of money advanced or loaned to any wage earner.

Spouse's Signature — A wage assignment by a married head-of-household to any wage broker is generally invalid and unenforceable without the signature of the wage earner's spouse on the assignment instrument.

Notice to Employer — No wage assignment is valid unless written notice, along with a copy of the assignment instrument, is delivered to the wage earner's employer within 10 days of its execution.

ASSESSMENT OF FINES — It is unlawful for an employer to assess a fine on any pretext against an employee and to collect such fine from the worker's wages.

SALE OF MERCHANDISE TO EMPLOYEES — It is illegal for employers to knowingly sell to any of their employees any merchandise or supplies at a higher price than the price at which the merchandise or supplies are sold to others for cash.

FAILURE TO PAY WAGES — An employer who fails to pay an employee his or her wages within 10 days after demand for payment is liable for the unpaid wages, plus a penalty of \$1 for each succeeding day, up to double the amount of wages due, plus a reasonable attorney's fee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655). A worker who has had an employer-imposed fine deducted from pay may report the violation to the Department, which is authorized to take legal action to enforce the prohibition against such practices on the worker's behalf. All other provisions summarized above are enforceable only through civil action by the worker, represented by private legal counsel or a public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE CLAIM LAW

STATUTORY CITATION: Ind. Code §§ 22-2-9-1 - 22-2-9-8

GENERAL SUMMARY: Article 2, Chapter 9 of the state labor laws prescribes procedures for payment of final wages upon a worker's termination from employment and establishes a process for resolving claims for unpaid wages. These provisions apply to employment in all industries and occupational classifications in Indiana.

SPECIFIC TERMS AND CONDITIONS

FINAL COMPENSATION — Whenever an employer terminates or suspends an employee, for whatever reason, the unpaid wages and other compensation are due and payable on the next regular payday for the pay period in which the separation occurs.

WAGE CLAIMS — Any worker who has not received full compensation for labor performed may file a claim for unpaid wages with the state labor department, provided the claim amounts to more than \$35 and less than \$6,000. The state agency is authorized to prosecute actions for the collection of any claim regarded by the agency as valid and enforceable in court.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655). In enforcing compliance with these provisions, the Department is required to investigate reported or suspected violations and may refer valid, enforceable wage claims to the state attorney general for civil action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who wishes to prosecute a wage claim on his or her own, or whose claim involves \$6,000 or more in unpaid wages, may bring legal action against the employer in civil court, using a private attorney or public legal service provider.

O DEPARTMENT OF LABOR GENERAL LAWS (EMPLOYER RECORDKEEPING)

STATUTORY CITATION: Ind. Code § 22-1-1-15

GENERAL SUMMARY: The statute establishing and governing the general operation of the state labor department requires most employers in Indiana to keep true and accurate records of the name, address and occupation of each employee, the employee's daily and weekly hours, and the amount of the employee's pay.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for the obligation to record the name, address and occupation of each worker employed, the general recordkeeping duty **does not apply** with respect to any worker employed in an agricultural capacity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ ADJUSTED GROSS INCOME TAX ACT OF 1963

STATUTORY CITATION: Ind. Code §§ 6-3-1-1 - 6-3-8.1-3

GENERAL SUMMARY: The Adjusted Gross Income Tax Act imposes a tax on the adjusted gross income (including employment earnings) of every Indiana resident, and on every non-resident of Indiana who has income derived from sources inside the state. The Act generally requires every employer who must withhold federal income tax from an employee's wages to deduct and withhold state adjusted gross income tax from the employee's wages also, and to remit withheld taxes to the state for credit against the worker's liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Indiana must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Indiana Department of Revenue, Indiana 46204 (317-232-2240). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Iowa

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Iowa

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Iowa Code §§ 92.1 - 92.23

GENERAL SUMMARY: The state child labor law limits the occupations, time of day, and maximum hours in which the employment of minors is legally allowed, and generally prohibits employers in Iowa from hiring any minor without receiving and keeping on file a valid work permit authorizing the child's employment.

PROVISIONS APPLICABLE TO AGRICULTURE

MIGRATORY LABOR — Minors who customarily and repeatedly travel from state to state in connection with seasonal employment in agriculture are subject to the following employment restrictions:

Minimum Age — In general, no one under the age of 12 may be employed or permitted to work in migratory agricultural labor at any time, with or without pay.

Work Permits — No child between 12 and 16 years of age may be employed in migratory agricultural labor without obtaining a special work permit from the state enforcement agency. An application for a permit must be filed by the child's parent or head of the family. Every person or firm intending to hire migrant child labor must obtain the work permit of any such child prior to employment. A work permit will not be issued for a child under the age of 14 without proof of age.

Time-of-Day Limitations — A valid work permit authorizes employment only between the hours of 5:00 a.m. and 7:30 p.m. (5:00 a.m. through 9:00 p.m. from June 1 through Labor Day), with these additional restrictions:

Children Age 12 and 13 — May not work prior to or during regular school hours on any day when a public or private school is in session and available to the child.

Children Age 14 and 15 — May be employed at any time during the summer school session.

Maximum Hours — No one under the age of 16 may be employed for more than 8 hours in any one day or more than 40 hours in any one week. When school is in session, such minors may not work more than 4 hours a day or 28 hours a week.

Rest Periods — Persons under 16 who are employed for 5 hours or more on any day are entitled to a rest period of not less than 30 minutes at some point during the workday.

OTHER AGRICULTURAL LABOR — Except for migratory work as defined above, the child labor law *does not apply* to minors performing part-time work in agriculture, nor to minors roguing, detasseling or hand-pollinating seed or grain crops during the summer months.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692). This agency is responsible for statewide issuance of work permits under the child labor law, and for enforcement of the restrictions against the employment of minors. Representatives of the Division are empowered to enter any establishment, question employers and employees, and inspect records for the purpose of fact-finding. The Division must report suspected infractions to local county attorneys, who are responsible for investigation and prosecution of confirmed violations. Liability for the unlawful employment of a minor extends to the parent, guardian or other person having control of the child, as well as to the employer involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Iowa Code §§ 299.1 - 299.24

GENERAL SUMMARY: Under Iowa's compulsory education law, a person who has control of a child over 6 and under 16 years of age, in proper physical and mental condition to attend school, must see that the child attends public school, or place the child under competent private instruction, during the school year set by the local school district.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provisions apply without regard to the occupational classification of the child or the child's parent or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the boards of directors of the local school corporations, through truancy officers and other attendance personnel. Truancy officers are authorized to take into custody without warrant any apparently truant child and to institute criminal misdemeanor proceedings against any person who has failed to assure the child's attendance as required.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

IOWA CIVIL RIGHTS ACT OF 1965

STATUTORY CITATION: Iowa Code §§ 216.1 – 216.21

RELATED REGULATIONS: Iowa Admin. Code 161.1.1 - 161.15.3

GENERAL SUMMARY: The Iowa Civil Rights Act defines certain unfair employment practices which, among other forms of discriminatory activity, are declared unlawful. The Act's employment discrimination provisions generally apply to all employers who regularly employ 4 or more individuals, without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Among other discriminatory practices, it is illegal for any employer who regularly employs 4 or more workers to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate in employment because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of the applicant or employee, unless such action is based on the nature of the occupation. Comparable acts of discrimination by employment agencies and labor organizations are also prohibited.

Employers, employment agencies and labor organizations may not, through advertising or in any other manner, indicate that individuals of any particular age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability are unwelcome, objectionable, not acceptable or not solicited for employment or membership, unless such qualification is based on the nature of the occupation.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory employment practice may file a written complaint with the state agency, no later than 300 days after the alleged practice occurred. After notifying the respondent, the state agency staff must make a prompt investigation and issue a recommendation on the case to an agency hearing officer. If the hearing officer concurs that probable cause exists regarding the allegation, the staff must try to eliminate the discrimination or unfair practice informally. Failure to resolve the matter within 30 days thereafter will lead to a formal hearing by the state agency, which may order binding remedial action by the employer if it finds that a violation has in fact occurred.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Iowa Civil Rights Commission, Des Moines, Iowa 50319 (515-281-4121; toll-free 800-457-4416).* The Commission is charged with receiving, investigating and determining the merits of complaints alleging unfair or discriminatory practices.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After 60 days following the timely filing of a complaint, the complainant may request a right-to-sue letter from the Commission and file a private civil suit for relief in state district court, using a private attorney or a public legal service provider. However, the Commission is barred from issuing a right-to-sue letter if, on the date of the request, (1) the Commission has issued a finding of "no probable cause," (2) a conciliation agreement has been entered into, (3) the Commission has served a notice of hearing on the respondent, or (4) the complaint has been administratively closed and 2 years have elapsed since the date of closure. In all cases, private civil action must commence within 90 days after the right-to-sue letter is mailed, and once a letter is issued, the Commission is barred from further action on the complaint.

● IOWA CIVIL RIGHTS ACT OF 1965 (WAGE DISCRIMINATION)

STATUTORY CITATION: Iowa Code § 216.6A

RELATED REGULATIONS: Iowa Admin. Code 161.1.1 – 161.15.3

GENERAL SUMMARY: The Iowa Civil Rights Act includes a provision explicitly prohibiting wage discrimination. The Act applies to all employers who regularly employ 4 or more individuals, without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer who regularly employs 4 or more workers to discriminate against an employee — because of the employee's age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability — by paying wages to the employee at a rate less than the rate paid to other employees in the same establishment for equal work on jobs that require equal skill, effort and responsibility and that are performed under similar working conditions.

Wage differentials are not regarded as discriminatory if they are based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other factor other than the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of the employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Iowa Civil Rights Commission, Des Moines, Iowa 50319 (515-281-4121; toll-free 800-457-4416).* The Commission is charged with receiving, investigating and determining the merits of complaints alleging unfair or discriminatory practices.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After 60 days following the timely filing of a complaint, the complainant may request a right-to-sue letter from the Commission and file a private civil suit for relief in state district court, using a private attorney or a public legal service provider. However, the Commission is barred from issuing a right-to-sue letter if, on the date of the request, (1) the Commission has issued a finding of "no probable cause," (2) a conciliation agreement has been entered into, (3) the Commission has served a notice of hearing on the respondent, or (4) the complaint has been administratively closed and 2 years have elapsed since the date of closure. In all cases, private civil action must commence within 90 days after the right-to-sue letter is mailed, and once a letter is issued, the Commission is barred from further action on the complaint.

HEALTH AND SAFETY

OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Iowa Code §§ 88.1 – 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.28.1

GENERAL SUMMARY: The state occupational safety and health law imposes a general duty on all Iowa employers to furnish their employees with a job and a workplace free from recognized hazards that threaten serious injury or death, and to comply with specific safety and health standards that are adopted by the state labor commissioner under the law's authority and applicable to their respective industries or workplaces.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Iowa's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).* In carrying out its enforcement role under this law, the Division is authorized to enter any workplace in Iowa where employees are engaged, to inspect working conditions and equipment, to subpoena documentary evidence and witnesses, and to hold hearings. When an inspection discloses a violation of any standard promulgated under the authority of the state occupational safety and health statute, the Division may issue a citation, requesting correction of the violation within a specified time span. Failure to respond to a citation may, after opportunity for hearing and appeal, lead to imposition by the Division of a civil fine and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

MIGRATORY LABOR CAMP LAW

STATUTORY CITATION: Iowa Code §§ 138.1 – 138.19

RELATED REGULATIONS: Iowa Admin. Code 641.81.1 - 641.81.6

GENERAL SUMMARY: Chapter 138 of the Iowa statutes requires a state-issued permit as a precondition for the operation of certain migrant labor camps in the state. The migratory labor camp law prescribes detailed site, construction and facilities standards with which such housing must comply to be eligible for a permit, and imposes other responsibilities and restrictions on the housing operator for the protection of the occupants.

SPECIFIC TERMS AND CONDITIONS

COVERAGE CONDITIONS — A migrant labor camp is defined as one or more buildings, structures, shelters, tents, trailers or vehicles established, operated or maintained as living quarters for 7 or more migrant farmworkers (including the spouse and children of such workers). Included within this definition is any combination of separate living quarters which together house 7 or more migrant workers, all of whom work at any time for the same employer.

PERMITS — No one may establish, operate or maintain a migrant labor camp without having obtained a permit from the state to do so, and unless the permit remains in full effect and is kept posted on the premises at all times during operation.

HOUSING STANDARDS — To be eligible for a permit, a migrant labor camp must meet detailed requirements covering the factors summarized below.

Site — Camps must be situated and maintained so as to prevent health, fire and related hazards.

Shelters — There must be at least 50 square feet per occupant for sleeping purposes in family units and dormitories, and at least 40 square feet per occupant in sleeping rooms equipped with bunk beds. There must be 60 square feet per occupant in rooms where people cook, live, and sleep.

Water Supply — An adequate and convenient water supply must be provided for drinking, cooking, bathing, and laundry purposes. Private water sources must be tested prior to operation to ensure the water is safe with respect to bacteria and chemicals.

Sewage Disposal — Sewer lines and floor drains from all units must be connected to the public sewer system, if available, or to a sanitary waste disposal system approved by the state enforcement agency.

Toilet Facilities — Sanitary, well-ventilated toilet facilities adequate for the capacity of the camp must be provided. Where facilities are shared by persons not of the same immediate family, there must be separate toilet rooms for men and women, and facilities in a minimum ratio of one unit for every 15 persons of each sex.

Handwashing, Bathing, and Laundry Facilities — Hot and cold running water and associated equipment and fixtures must be provided for bathing and laundry purposes. There must be at least one handwashing basin in each immediate-family shelter or for every 15 individuals (or fraction thereof) in shared facilities, one showerhead for every 15 occupants, one laundry tray or tub for every 25 occupants, and one slop sink in each building used for laundry, handwashing or bathing. Every shower room or service building used during seasons requiring artificial heating must be furnished with equipment capable of maintaining a room temperature of 70 degrees F.

Lighting — Electric service is mandatory in all camps, and safe, numerically adequate electrical outlets and lighting fixtures must be provided.

Cooking and Eating Accommodations — There must be adequate gas or electric stoves for cooking at each camp, either for individual family use or for congregate meals. Likewise, necessary allied facilities such as refrigeration, counters and food storage shelves must also be made available wherever food is prepared. Tables and seating for food service are required.

Refuse Disposal — At least one 20-gallon fly-tight container must be made available for every 15 occupants for storage of garbage. Camp operators must arrange for refuse collection at least twice a week.

Safety and Fire Prevention — First-aid and fire extinguishing equipment must be provided and kept in functioning condition and accessible to camp residents at all times. Agricultural pesticides, toxic chemicals and flammable or volatile liquids (other than those needed for current household use) must be stored away from living areas.

Insect and Rodent Control — Safe and effective measures must be taken to control rats, mice, flies, mosquitoes and other pests within camp premises.

COMMUNICABLE DISEASES — The camp operator must report immediately to the local board of health the name and address of any camp resident known to have or suspected of having a non-minor communicable disease. Similarly, any case of suspected food poisoning or any unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting or jaundice is a prominent symptom must be reported to the local health authority and to the state health commissioner.

RENTAL CHARGES — No camp operator or any other person may make a rental charge or deduction from a worker's wages for providing any migrant labor housing or related housing facilities unless the worker is advised thereof prior to contracting for the employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Labor Camp Program, Bureau of Environmental Health Services, Iowa Department of Public Health, Des Moines, Iowa 50319 (515-281-8561). This agency is responsible for inspecting each housing facility for which a permit application is received, and for issuing a permit to each camp found to comply with the substantive standards outlined above. Agency personnel may also periodically inspect migrant housing facilities on their own initiative or in response to complaints. If a permit-holder fails within a specified timeframe to correct all conditions found out of compliance, the Department may suspend or revoke the permit. Operating a migrant labor camp without a permit, as well as any other violation of the migratory labor camp law, is classed as a simple misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

■ IOWA EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Iowa Code §§ 96.1 – 96.51

GENERAL SUMMARY: The lowa Employment Security Law provides for the payment of weekly cash benefits to workers who are temporarily unemployed and actively seeking employment. Unemployment insurance benefits are paid from the state unemployment compensation fund, which is financed by mandatory assessments against most lowa employers in proportion to the amount of taxable wages paid.

Most employers are required to pay state unemployment taxes if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every Iowa farm operator or other agricultural establishment that (1) paid \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some portion of a day in 20 or more different calendar weeks in the current or preceding calendar year, is required to pay contributions to the state unemployment compensation fund on the workers' behalf. Under current law, an employer is liable for contributions with respect to the wages paid to each worker during the calendar year, up to a maximum taxable amount for each employee equal to $66 \, ^{\circ}/_{3}$ percent of the statewide average annual wage paid to all Iowa employees for insured work.

ELIGIBILITY FOR BENEFITS — Like workers in most other occupational groups, an unemployed farmworker is generally eligible for unemployment benefits in a particular week if the state agency finds that the claimant (1) has registered for work, (2) is able to work, is available for work, and is actively seeking work, (3) during the first four of the last five completed calendar quarters immediately preceding the claim, received insured wages equaling at least 1½ times the wages received during the quarter when earnings were highest, (4) earned wages from covered employment in two or more quarters of the four-quarter base period, and (5) earned at least \$1,480 in one of those two quarters and at least \$740 in another.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is calculated as a percentage of the claimant's high-quarter wages, the percentage varying according to the number of dependents. A claimant with no dependents is eligible for weekly benefits equal to 1/23 of peak-quarter wages, up to a maximum amount of 53 percent of the statewide weekly wage. For comparison, an unemployed worker with four dependents is entitled to 1/19 of peak-quarter wages, but no more than 65 percent of the statewide average weekly wage. During a week of partial unemployment, an eligible claimant would receive the weekly benefit amount, minus that portion of the week's earnings in excess of 1/4 of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Services Division, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-3896). This agency is responsible for the administration of the state unemployment insurance system, including determination of employer liability for UI taxation, determination of claimant eligibility for unemployment compensation, adjudication of employer and claimant appeals, and payment of benefits. UI claims may be filed at any local IowaWORKS Center, or online at https://uiclaims.iwd.iowa.gov/UIInitialClaim/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATUTORY CITATION: Iowa Code §§ 85.1 – 85.72

GENERAL SUMMARY: The Iowa workers' compensation law requires every employer in the state not specifically exempted to pay weekly cash benefits, medical and rehabilitation expenses, and burial costs for any and all personal injuries sustained by an employee arising out of and in the course of the employment. Employers who secure workers' compensation insurance or equivalent coverage are generally relieved of any liability for damages in the event of an employee's injury or death on the job, and the employee or the employee's beneficiaries are entitled to compensation without regard to the question of negligence and normally without the need for litigation.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that paid at least \$2,500 in cash wages the previous year are liable in the current year for payment of workers' compensation benefits with respect to the injury or death of any of their employees. Correspondingly, an agricultural worker who, at the time of a job-related injury, was employed by an agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding calendar year is entitled to workers' compensation benefits; if the injury results in the worker's death, benefits are usually payable to the worker's surviving dependents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583). This agency is responsible for general administration of the workers' compensation law, and for resolving disputes between employees, employers and workers' compensation insurance carriers regarding liability for payment of benefits. Any worker injured on the job, or a dependent or representative of the worker, should notify the employer of any accident within 90 days of the date of occurrence. Failure to give notice within the 90-day period will nullify any claim for compensation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ IOWA OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Iowa Code §§ 85A.1 - 85A.27

GENERAL SUMMARY: The lowa Occupational Disease Law entitles employees in most industries and occupations in the state to receive cash compensation, surgical and medical care, physical rehabilitation, nursing and hospital care, and related services and supplies in the event of incapacity or death due to injurious exposure to an occupational disease. In general, where such compensation is payable, the employer in whose service the employee was last exposed to the hazards of the occupational disease involved is liable for coverage, to the extent that the employer is subject to the state workers' compensation law.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers with a cash payroll of at least \$2,500 the previous year are generally liable for payment of compensation to any worker whose incapacity derives from exposure to an occupational disease while in their employ; the employer's liability is normally met by securing a standard policy of occupational disease compensation insurance. Correspondingly, compensation for disablement due to an occupational disease is generally payable to any agricultural worker who, at the time of the last injurious exposure to the disease, was employed by a farm operator or other agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583). This agency has statewide jurisdiction over the operation of the occupational disease compensation system, including the resolution of disputes concerning liability, disablement and benefits. A worker who is incapacitated due to an occupational disease must give written notice to the employer within 90 days after the first distinct manifestation of the disease, or risk losing eligibility for benefits. Likewise, in the case of death from an occupational disease, a written claim must be filed with the employer by the worker's survivors within 90 days after the worker's death.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Iowa Code §§ 94A.1 – 94A.6

GENERAL SUMMARY: Chapter 94A of the state statutes regulates the business activities of employment agencies in the state, which may include the operations of farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSE — It is unlawful for any person or firm, for a fee or other compensation, to bring together employers seeking help with workers looking for employment without obtaining an employment agency license from the state. As a condition for receipt of a license, the applicant is required to post a surety bond in the sum of \$30,000, to pay any damages due to a wrongful act or violation of law on the part of the applicant. The applicant must also furnish the state agency with a fee schedule and a copy of its contract form, and pay a \$75 license application fee.

RECORDKEEPING — Employment agencies are required to keep records of each worker who signs an employment contract or agreement, the name and address of each employer to whom they refer an employee, and the respective fees charged. Each record must be kept for at least 2 years. They must also provide a copy of the respective contract or agreement — specifying the fee to be paid by the employee — to each employee referred to an employer.

PROHIBITED ACTS — Among other prohibitions spelled out in the law, a worker cannot be required to pay a fee to an employer as a condition of hire, and an employee cannot be compelled to reimburse the employer for a fee the employer paid to an employment agency when the employee was hired. Likewise, employment agencies are forbidden to fraudulently promise or deceive an employer seeking help or a worker seeking employment, charge an employee a fee greater than is allowed under the fee schedule filed with the state, or charge a fee greater than 15 percent of the employee's annual gross earnings.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-5615). The Division is responsible for receiving employment agency license applications, investigating applicants, and licensing those applicants found qualified to conduct such a business. The Division may revoke a license at any time, for cause.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE ACT OF IOWA

STATUTORY CITATION: Iowa Code §§ 206.1 - 206.34

RELATED REGULATIONS: Iowa Admin. Code 21.45.1 – 21.45.105

GENERAL SUMMARY: The Pesticide Act of Iowa governs the registration, sale, distribution, containment and application of pesticides in the state and includes, among others, provisions requiring the certification and licensing of pesticide applicators, and the reporting of pesticide accidents and losses. The state agriculture department is authorized to adopt more specific standards further regulating the use of pesticide products in Iowa.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply any pesticide in Iowa for hire without first passing a formal state-administered examination and being certified by the state administering agency as competent concerning pesticides and pesticide use. Likewise, agricultural producers who use restricted-use pesticides on their crops must be certified as private applicators and must be tested prior to certification.

LICENSING — Commercial pesticide applicators must be licensed by the state as a precondition for engaging in that business. Issuance of a license requires payment of a license fee and completion of an examination to demonstrate knowledge of application techniques and the nature and effect of the pesticides the applicant intends to use.

BONDING OR INSURANCE — The state agency will not issue a commercial applicator's license until the applicant has furnished evidence of financial responsibility, in the form of a surety bond or liability insurance policy covering damages resulting from the applicant's pesticide operations. The bond or insurance must be in an amount no less than \$100,000 each for property damage and public liability, or liability insurance with limits of \$100,000 per occurrence and \$300,000 annual aggregate.

APPLICATOR RECORDKEEPING — Every commercial applicator must keep a record of each application of pesticides. Among other information, the record must include the name and address of the landowner or customer, the date of the application, the name of the product used, the quantity of the product used and its concentration or application rate, and the temperature and wind velocity at the time of application.

DAMAGE OR INJURY CLAIMS — Any person claiming damages or injury from a pesticide application must file a report with the state agency on a prescribed form within 60 days after the date of the alleged incident. On receipt of a claim, the agency must inspect the purported damages, and if it determines that the complaint has merit, the agency must make such findings available to the complainant and to the person alleged to be responsible. With respect to any claim for damages against a licensed pesticide applicator, failure by the claimant to permit the state agency, the licensee, the bonding agency or the insurance carrier to inspect or examine the property or non-targeted organism alleged to have been damaged or injured will automatically bar the claim against the licensee.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Bureau, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319 (515-281-8591). The Department has responsibility for testing, certification and licensing of pesticide applicators in the state, and for periodic re-examination, re-certification and re-licensing. The Department is authorized to enforce compliance with the Act and the associated regulations, by entering public and private property for purposes of inspecting pesticide products, containers and application equipment, observing pesticide applications, and sampling soil, crops and non-targets for pesticide residues. In addition to suspension or revocation of an applicator's license for negligent operation and numerous other infractions, criminal penalties are also prescribed in the Act for violation of any of its provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ OCCUPATIONAL SAFETY AND HEALTH LAW (HAZARD COMMUNICATION)

STATUTORY CITATION: Iowa Code §§ 88.1 – 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.10.20

GENERAL SUMMARY: Iowa's occupational safety and health law authorizes the state labor commissioner to establish and enforce specific safety and health standards in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Iowa's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to those farm establishments that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).* In carrying out its enforcement role under this law, the Division is authorized to enter any workplace in Iowa where employees are engaged, to inspect working conditions and equipment, to subpoena documentary evidence and witnesses, and to hold hearings. When an inspection discloses a violation of any standard promulgated under the authority of the state occupational safety and health statute, the Division may issue a citation, requesting correction of the violation within a specified time span. Failure to respond to a citation may, after opportunity for hearing and appeal, lead to imposition by the Division of a civil fine and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O HAZARDOUS CHEMICALS RISKS RIGHT TO KNOW ACT

STATUTORY CITATION: Iowa Code §§ 89B.1 – 89B-17

RELATED REGULATIONS: Iowa Admin. Code 875.110.1 - 875.110.7

GENERAL SUMMARY: The Hazardous Chemicals Risks Right to Know Act affirms, among other individual and community-wide protections, the right of most classes of workers in Iowa to be informed about the hazardous chemicals to which they may be exposed in the workplace, the potential health risks of such substances, and the proper techniques for handling them. Except as explicitly exempted, all employers in the state must make available to each of their employees safety data on all hazardous chemicals at the job site and provide special training to those workers assigned any special task which increases the workers' potential exposure to any such substance.

PROVISIONS APPLICABLE TO AGRICULTURE: The Hazardous Chemicals Risks Right to Know Act applies to agricultural and non-agricultural workplaces, employers and employees alike. No detailed regulations implementing the requirements for transmitting chemical hazard information to employees, however, have been adopted by the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OCCUPATIONAL SAFETY AND HEALTH LAW (ANHYDROUS AMMONIA)

STATUTORY CITATION: Iowa Code §§ 88.1 – 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.10.20

GENERAL SUMMARY: Iowa's occupational safety and health law authorizes the state labor commissioner to establish and enforce specific safety and health standards in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Iowa's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Iowa Code § 91D.1

GENERAL SUMMARY: Iowa's minimum wage law requires covered employers to pay their covered employees either the state or the federal minimum wage, whichever is greater. The law applies to employers and employees as those terms are defined in the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage) but generally does not apply to any establishment with an annual gross volume of sales less than \$300,000.

Both the state and federal minimum wages are currently \$7.25 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the federal minimum wage exempts all but the largest farming operations, Iowa farmworkers are entitled to the state minimum wage only if they are employed by a farm operator or other agricultural establishment that (1) used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year and (2) has a gross annual sales volume of at least \$300,000.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692). This agency is authorized to investigate complaints related to the state minimum wage, and to take action to enforce payment of the minimum wage when evidence shows there has been a violation. The Division may bring action in state court against employers who violate the law, and courts may order payment of back wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

IOWA WAGE PAYMENT COLLECTION LAW

STATUTORY CITATION: Iowa Code §§ 91A.1 - 91A.14

GENERAL SUMMARY: The Iowa Wage Payment Collection Law establishes minimum statewide standards concerning employee pay periods, paydays, medium of payment, final wages, wage deductions, and wage statements, applicable to most agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — With few exceptions, employers must pay all wages due at least monthly, semi-monthly or bi-weekly, on regular paydays of consistent intervals designated in advance by the employer. A payday may not be more than 12 days (excluding Sundays and legal holidays) after the end of the pay period for which wages are to be paid.

MEDIUM OF PAY — Wages must normally be paid in U.S. currency, or by check or comparable draft negotiable for U.S. currency on demand and at full face value.

FINAL COMPENSATION — Whenever a worker is suspended or terminated, the employer must pay the net amount of all wages earned by the worker up to the time of suspension or termination, no later than the next regular payday.

WAGE DEDUCTIONS — An employer may not withhold or divert any portion of a worker's wages unless such deduction is required or permitted under state or federal law or by court order, or the deduction is authorized in writing by the worker for a lawful purpose and for the worker's own benefit. In no event, however, may an employer make any deduction for, among other things, losses due to breakage or damage to property, as long as such losses are not attributable to the worker's willful disregard for the employer's interests.

WAGE STATEMENTS — On each regular payday, employers must provide each worker with a statement showing the hours worked, the wages earned, and any deductions made from the worker's earnings.

DISCLOSURES AND RECORDS — Under most circumstances, any employer who has paid a claim for unpaid wages and damages, or who has been assessed a civil money penalty by the state agency for a violation of this law, may be compelled by the agency (1) to notify its employees, in writing and at the time of hiring, as to the wages to be paid and the schedule of designated paydays, (2) to notify the workers, in advance, of any changes in wages or paydays, (3) to comply with worker requests for written compensation policies, and (4) to keep payroll records showing hours worked, wages earned, and deductions made with respect to each employee and to preserve such records for at least 3 years.

LIABILITY FOR UNPAID WAGES — If a farm labor contractor contracts with a seed or feed grain producer to rogue, detassel or hand-pollinate plants and fails to pay all his or her workers' wages, the seed or feed grain producer is also liable to the workers for the unpaid wages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692). This agency is charged with investigating reported or suspected violations of the Wage Payment Collection Law, and accordingly is authorized to enter any place of employment to inspect payroll records, to question the employer and employees, and to take other appropriate steps to document whether or not a violation has occurred. In the case of any enforceable claim for unpaid wages, and with the consent of the complaining employee, the Division must take assignment of the claim and, if necessary, commence action in civil court to recover the unpaid wages and liquidated damages, provided the claim has been filed within one year after the date the wages became due and payable. In addition to liability for wages and damages, employers who violate these provisions are subject to civil money penalties imposed by the Division.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of the Wage Payment Collection Law has the option of taking action to recover unpaid wages and damages in a private suit, with legal counsel of the worker's own choosing.

MIGRATORY LABOR CAMP LAW (RENTAL CHARGES)

STATUTORY CITATION: Iowa Code § 138.17

GENERAL SUMMARY: Aside from its licensing and sanitation provisions, the migratory labor camp law puts certain restrictions on the deduction of housing costs from workers' wages.

SPECIFIC TERMS AND CONDITIONS: A rental charge or deduction from the wages of a migrant agricultural worker may not be made by a migrant labor camp operator or any other person for providing any housing facilities required under the labor camp law, unless the worker is fully informed of all such charges or deductions to be made prior to contracting for the employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Labor Camp Program, Bureau of Environmental Health Services, Iowa Department of Public Health, Des Moines, Iowa 50319 (515-281-8561). Any worker who has any housing-related charges deducted from pay without having been advised of the charges in advance of hiring should notify the Department or seek legal recourse through a private attorney or public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PERSONAL NET INCOME TAX LAW

STATUTORY CITATION: Iowa Code §§ 422.4 – 422.31

GENERAL SUMMARY: Chapter 422, Division II of the state statutes establishes a personal net income tax applicable to wage earners and other individuals in Iowa, and requires withholding of state income tax at the source of payment. Every employer required under the Internal Revenue Code to withhold federal income tax from any employee's wages must also deduct and withhold state income tax on the employee's earnings, and forward state withholding taxes to the state revenue department for credit against the worker's tax liability.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminates before the close of the current calendar year — the employer is required to provide the employee with a written statement showing (1) the employer's name, address and tax identification number, (2) the employee's name, address and Social Security number, (3) the employee's gross wages, (4) the amount of state income tax withheld, and (5) the amount of federal income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Iowa must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Iowa Department of Revenue, Des Moines, Iowa 50306 (515-281-3114; toll-free 800-367-3388).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Kan. Stat. §§ 38-601 - 38-622

GENERAL SUMMARY: The state child labor laws generally forbid the employment of anyone under 14 years of age, prohibit persons under the age of 18 from working in hazardous occupations, restrict the time of day and maximum hours during which minors under 16 may be lawfully employed, and require employers to obtain a work permit authorizing the employment of anyone under 16 who is not enrolled in or attending secondary school.

PROVISIONS APPLICABLE TO AGRICULTURE: As long as employment of a child attending school does not occur during the hours in which the public schools are in session in the district where the child resides, the child labor laws in Kansas do not apply to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ GENERAL LABOR LAWS (WAGES, HOURS AND CONDITIONS FOR MINORS)

STATUTORY CITATION: Kan. Stat. §§ 44-639 - 44-650

RELATED REGULATIONS: Kan. Admin. Regs. §§ 50-1-1 - 50-4-2

GENERAL SUMMARY: The provisions of the state labor laws addressing the wages, hours and working conditions of learners, apprentices and minors authorize the secretary of labor to investigate wages, hours and other working conditions in any occupation, and to establish wage and hour standards applicable to the employment of minors in any such occupation where existing conditions are inadequate to supply the necessary cost of living and to maintain the health of such workers.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state labor secretary has adopted **no standards** explicitly applicable to minors employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Kan. Stat. §§ 72-1111 and 72-1113

GENERAL SUMMARY: With few exceptions, the compulsory school attendance law requires every parent or guardian having control of any child in Kansas who has reached the age of 7 years, but who is under the age of 18, to ensure that the child attends a public school for the duration of the prescribed school term, or a private, denominational or parochial school taught by a competent instructor for a substantially equivalent period of time.

PROVISIONS APPLICABLE TO AGRICULTURE: The school attendance provisions apply without regard to the occupational classification or employment status of the parent or child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced at the local level by the state's local school boards. Each school board must designate one or more attendance officers, who are responsible for monitoring compliance with the compulsory attendance law. Whenever a child under the age of 13 is not attending school as required, the local attendance officer generally must report the case to the Department for Children and Families for corrective action; cases of non-attendance by children 13 years of age and older are reported to the appropriate county or district attorney.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Kansas Department for Children and Families, Topeka, Kansas 66612 (785-296-3271).

CIVIL RIGHTS

KANSAS ACT AGAINST DISCRIMINATION

STATUTORY CITATION: Kan. Stat. §§ 44-1001 - 44-1044

GENERAL SUMMARY: The Kansas Act Against Discrimination is intended, in part, to eliminate and prevent discrimination in employment relations, by declaring various employment practices unlawful and establishing a state commission to investigate and resolve discrimination complaints. The Act generally applies to individuals and for-profit businesses with 4 or more employees, regardless of industry.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal for a farm operator or any other employer with 4 or more workers to refuse to hire a job applicant, to discharge an employee, to segregate or make other distinctions between applicants or employees, or to discriminate in any other manner against such individuals on the basis of race, religion, color, sex, disability, national origin, or ancestry, without a valid business motive. Furthermore, it is unlawful for an employer to circulate any advertisement or statement, or to use any form of job application, which expresses any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin, or ancestry. Any comparable practice engaged in by an employment agency or labor organization is also prohibited.

COMPLAINTS — Anyone claiming to have suffered discriminatory treatment outlawed under the Act may file a written complaint with the state enforcement agency, provided the complaint is filed within 6 months of the alleged violation. The agency must notify the alleged violator of the charges within 7 days and investigate the charges thereafter. If probable cause exists for crediting the allegations of the complaint, the agency has 45 days from the date of such a determination to eliminate the unlawful practice by informal conciliation. A formal hearing will be held in the event a conciliation agreement is not reached within that timeframe. Upon consideration of the evidence presented at the hearing, the agency may issue a cease-and-desist order if the charges are proven and may award compensation for any wage losses suffered by the complainant. An order for restitution may include hiring, reinstatement or upgrading, with or without back pay, as well as an award of up to \$2,000 as damages for pain, suffering and humiliation.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206). The Commission must respond to any properly filed complaint of discrimination and may also pursue charges on its own initiative. Representatives of this agency are authorized to inspect written employment documentation, interview employers and employees, subpoena documents and witnesses, hold hearings and take testimony. The Commission or, at the Commission's request, the state attorney general or a county or district attorney may secure enforcement of any final order of the Commission in state court. Any employer, or any agent of an employment agency or labor organization, who violates a Commission order is subject to fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Whenever the Commission closes a case and the complainant is not satisfied with the outcome, the complainant may take civil action against the employer or other respondent involved directly, using a private attorney or a public legal service provider.

○ MINIMUM WAGE AND MAXIMUM HOURS LAW (WAGE DISCRIMINATION)

STATUTORY CITATION: Kan. Stat. § 44-1205

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law, aside from establishing minimum wage and overtime pay requirements, provides that no employer subject to the Act may discriminate against employees on the basis of sex, by paying them wages at a rate less than the wage rate paid to employees of the opposite sex in the same establishment for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. The Act does not, however, bar unequal compensation paid pursuant to a seniority or merit system, a system that measures earnings by quantity or quality of production, or any other arrangement in which a wage differential is based on a factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law, and hence the sex discrimination provision, does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

KANSAS AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Kan. Stat. §§ 44-1111 - 44-1121

GENERAL SUMMARY: The Kansas Age Discrimination in Employment Act makes it an unlawful employment practice for an employer of 4 or more workers to discriminate against a person 40 years of age or older, by refusing to hire, discharging, segregating, limiting, or otherwise discriminating against any such person because of age. The Act enumerates related practices by employers, employment agencies and labor organizations that are likewise illegal. Among certain other exceptions, it is not unlawful to make employment decisions based on age where age is a bona fide occupational qualification necessary to the normal operation of the particular business, or to observe the terms of a bona fide seniority system or employee benefit plan which is not simply a subterfuge to evade the purposes of the state civil rights laws.

PROVISIONS APPLICABLE TO AGRICULTURE: The Age Discrimination in Employment Act applies to agricultural employers with 4 or more workers, to the same extent as in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — Without the worker's express or implied consent, an employer is not permitted to reduce the wage rate of any worker or otherwise alter the terms or conditions of a worker's employment in order to comply with the Act.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206). The Commission is responsible for investigating all properly filed complaints charging age discrimination under the Act. The Commission must process such complaints in the same manner as prescribed in the Kansas Act Against Discrimination. Violation of the age discrimination in employment provisions is a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$500, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Kan. Stat. §§ 44-701 - 44-770

GENERAL SUMMARY: The Employment Security Law establishes a state employment security fund, into which mandatory unemployment insurance contributions collected from Kansas employers are deposited, and from which weekly cash benefits for eligible jobless workers are paid. Employers are generally required to pay contributions if they (1) paid \$1,500 or more in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment which (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers for agricultural labor, are required to pay unemployment insurance taxes to the state fund on their workers' behalf. An employer's contributions in a given calendar year are generally computed on the first \$14,000 paid that year to each of the employer's workers, applying a tax rate assigned by the state agency on the basis of the employer's recent UI claims history and other factors.

ELIGIBILITY FOR BENEFITS — An unemployed individual is generally eligible to receive unemployment benefits only if the state agency finds, in substantial part, that the claimant (1) has registered for work and continued to report to the state employment office, (2) is able to work and available for work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim, been paid total wages for insured work amounting to at least 30 times the claimant's weekly benefit amount (explained below) and has been paid wages in more than one quarter of the four-quarter base period.

AMOUNT OF BENEFITS — In general, an eligible claimant's weekly benefit amount is equal to 4.25 percent of the total insured wages received during the one quarter in the four-quarter base period in which such wages were highest. The weekly benefit amount may not, however, exceed 55 percent of the average weekly wages of all covered employees in the state, computed for the preceding calendar year, nor may such amount be less than 25 percent of the maximum weekly benefit. Each eligible claimant who is unemployed in a particular week is entitled to a payment equal to the weekly benefit amount, minus that part of any wages earned that week which exceeds 25 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Unemployment Insurance Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-575-1460).* This agency is responsible for determining UI tax liability of employers, enforcing the payment of contributions by liable employers, processing benefit claims by unemployed workers, adjudicating UI appeals by employers and claimants, and paying unemployment benefits. Claims may be filed by telephone, at 800-292-6333, or online at www.getkansasbenefits.gov/BenefitsStartMenu.aspx.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS COMPENSATION ACT

STATUTORY CITATION: Kan. Stat. §§ 44-501 - 44-5,127

GENERAL SUMMARY: The Workers Compensation Act provides that in the event of personal injury to an employee through an accident arising out of and in the course of any employment covered by the law, the employer is liable for the payment of compensation to the injured employee or the employee's surviving dependents. Compensation includes weekly cash payments to offset lost wages, payment of medical and rehabilitation expenses, payment of burial costs, and other benefits.

Subject employers must secure compensation coverage by (1) obtaining and keeping in force an approved policy of workers' compensation insurance, (2) furnishing proof to the state administering agency of financial ability to pay compensation as a self-insurer, or (3) maintaining membership in a qualified group-funded workers' compensation pool. Failure to pay compensation when due may result in a civil penalty against the employer or insurance carrier, payable to the claimant in addition to the required compensation.

With some exceptions, the obligation to insure against workplace accidents and injuries applies to all employers who pay more than \$20,000 in gross wages per year.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers Compensation Act **does not apply** to agricultural pursuits and employment incidental to agricultural operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers Compensation Division, Kansas Department of Labor, Topeka, Kansas 66603.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: Kan. Stat. §§ 44-5a01 - 44-5a22

GENERAL SUMMARY: The Occupational Diseases Act declares that the disablement or death of a worker which results from an occupational disease must be treated as an injury by accident, provided the worker and the worker's employer are subject to the Workers Compensation Act. Covered workers disabled by an occupational disease (or the beneficiaries of workers whose death is caused by an occupational disease) are entitled to cash compensation, medical payments and other benefits under the Workers Compensation Act as if the disability or death were due to a compensable occupational injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as coverage extends only to those employees covered by the state workers' compensation law, the Occupational Diseases Act **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers Compensation Division, Kansas Department of Labor, Topeka, Kansas 66603.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Kan. Stat. §§ 44-401 - 44-412

GENERAL SUMMARY: The state's private employment agency law requires any for-profit business in Kansas which uses advertising to solicit workers seeking employment, or which provides job information to workers seeking employment, and charges the workers a fee to do so, to (1) obtain a private employment agency license from the state, and (2) comply with specific rules regulating their activities.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open, operate or maintain a business performing any private employment agency activities or service without a license issued by the state labor department. The annual license fee is \$25.

BOND — Each applicant for a license must post a bond in the amount of \$500 as security against violations of the employment agency law.

PROHIBITED ACTS — It is illegal for a licensed employment agency to publish any false or fraudulent notice or give any false information to workers concerning work or employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-296-5000, extension 1068). The Department is responsible for licensing private employment agencies and for monitoring compliance with the provisions of the employment agency law. When a complaint is received, the Department must investigate and is required to report confirmed violations to the state attorney general, or to the district or county attorney, for prosecution. Violations are treated as class C misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

EMPLOYEE PROTECTION LAWS (CREW CHIEF REGISTRATION)

STATUTORY CITATION: Kan. Stat. §§ 44-125 - 44-129

GENERAL SUMMARY: The state labor laws include explicit provisions for the protection of migrant workers in Kansas, largely regulating the employment-related activities of agricultural crew leaders.

SPECIFIC TERMS AND CONDITIONS

CREW LEADER REGISTRATION — Any person (other than an employer or custom combine operator) who brings any migrant agricultural worker into Kansas, or who is responsible for finding them employment, must register with a local office of the state employment service. Upon registration, the crew leader must furnish the agency with a list of the names and Social Security numbers of all migrant workers the crew leader serves in that capacity and the names of the farm operators for whom worker recruitment services are being performed.

AVAILABILITY OF INFORMATION — Any of the information furnished to the state by a crew leader as described above must be made available to the public upon request.

WAGE PAYMENTS — All farm operators and other agricultural establishments that employ migrant agricultural workers in Kansas must make wage payments directly to each individual worker, and no such payment may be made to a crew leader.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workforce Services Division, Kansas Department of Commerce, Topeka, Kansas 66612 (785-296-3481). Violations of these provisions are treated as a misdemeanor criminal offense, and any crew leader convicted of a violation is barred from doing business in Kansas for a period of 2 years.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

→ AGRICULTURAL EMPLOYMENT RELATIONS LAW

STATUTORY CITATION: Kan. Stat. §§ 44-818 - 44-830

RELATED REGULATIONS: Kan. Admin. Regs. §§ 12-1-1 - 12-2-17

GENERAL SUMMARY: To eliminate obstructions to the free flow of commerce, while protecting the right of agricultural workers in Kansas to organize without undue injury to the public interest, the agricultural employment relations law (1) clarifies the labor rights of farmworkers and the corresponding rights of agricultural employers, (2) prescribes procedures for certification or recognition of employee bargaining representatives, (3) defines certain prohibited practices by employers, workers and worker organizations, and (4) creates a state board to resolve representational questions, mediate bargaining disputes, and process unfair labor practice complaints.

These provisions generally apply only to agricultural employers who employed 6 or more workers for 20 or more days of any calendar month during the six months preceding the filing of a petition for recognition by such workers.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF WORKERS — Agricultural employees have the right to form, join and participate in the activities of labor organizations of their own choosing, for the purpose of meeting and conferring with agricultural employers concerning grievances and employment conditions. Farmworkers also have the right to refrain from such activities, and no worker may be required to join a labor organization as a condition of employment.

RIGHTS OF EMPLOYERS — Agricultural employers have the right to manage their own production operations, which includes directing the work of their employees, making decisions regarding the hiring, promotion, demotion, suspension, and discharge of their employees, and determining what crops will be produced and how they will be grown and marketed.

CERTIFICATION OR RECOGNITION OF LABOR ORGANIZATIONS — Upon filing of a petition for certification or investigation of a bargaining representative, accompanied by the names of at least 30 percent of the workers in an appropriate bargaining unit, or when a question concerning representation is raised by an employer, the state board is required to determine voting eligibility and conduct an election. Recognition will be granted only to a labor organization that has been selected by secret ballot by a majority of the eligible workers in an appropriate unit who vote in the election. Each worker must be given an opportunity to vote for the labor organization of his or her choice, or to choose no representation. A certified labor organization is obligated to fully and equally represent all employees in the unit involved, irrespective of their membership in the organization.

If the board has certified a labor organization in a particular unit, it is generally not required to consider the matter again for a period of one year. Furthermore, no election may be ordered if a valid contract is in effect, for a duration not exceeding 3 years, unless a petition is received from at least 70 percent of the unit's employees seeking decertification.

PROHIBITED PRACTICES BY EMPLOYERS — Agricultural employers and their representatives are forbidden from engaging in the following acts, among others:

- (1) Interfering with, restraining or coercing farmworkers in the exercise of the rights outlined above.
- (2) Dominating, interfering with or assisting in the formation or administration of an agricultural labor organization.
- (3) Encouraging or discouraging membership in a labor organization or similar association, by discriminating in hiring, tenure or other conditions of employment.
- (4) Refusing to meet and confer in good faith with representatives of certified or recognized labor organizations. PROHIBITED PRACTICES BY WORKERS AND LABOR ORGANIZATIONS Among others, the following activities are forbidden of agricultural workers and agricultural labor organizations:
- (1) Interfering with, restraining or coercing farmworkers in the exercise of the worker rights mentioned above.
- (2) Interfering with the management rights of agricultural employers, as discussed above.
- (3) Conducting organizational picketing at an employer's residence or place of business.
- (4) Refusing to meet and confer in good faith with an agricultural employer as required.
- (5) Engaging in a strike during a critical period of production or harvesting, or during mediation, fact-finding or arbitration proceedings.
- (6) Engaging in a secondary boycott.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

SPECIAL NOTES OR ADVISORIES

ENFORCEMENT LIMITATION — The agency created to enforce the agricultural employment relations law is activated only when a complaint is filed with the state Secretary of Agriculture alleging the existence of a controversy. Within 15 days of such a filing, the Secretary of Labor, the Secretary of Administration, and the Secretary of Agriculture must submit to the Governor the names of potential appointees, representing agricultural workers, agricultural employers, and the general public, respectively. Within 10 days after receiving the names, the Governor is required to appoint one person from each list to comprise the Agricultural Labor Relations Board. The agency is deactivated when the agriculture secretary determines there is no pending or threatened controversy under the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Labor Relations Board, Kansas Department of Labor, Topeka, Kansas 66603. This agency is currently inactive.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Secretary of Agriculture, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6700). As described in the special note above, the Secretary of Agriculture has authority to activate and deactivate the Agricultural Labor Relations Board, in response to labor conflicts submitted to the Secretary's office and in the absence of such conflicts.

PESTICIDES AND AGRICULTURAL CHEMICALS

KANSAS PESTICIDE LAW

STATUTORY CITATION: Kan. Stat. §§ 2-2438a – 2-2480

RELATED REGULATIONS: Kan. Admin. Regs. §§ 4-13-1 - 4-13-65

GENERAL SUMMARY: The Kansas Pesticide Law governs the application and other use of agricultural pesticides and related toxic products in the state, by requiring the licensing of pesticide businesses and certification of commercial and private applicators, defining various unlawful acts involving pesticides, imposing recordkeeping duties on applicators, and establishing a damage claim process. The state agriculture secretary is authorized to adopt additional, more specific standards regulating the use of pesticides.

SPECIFIC TERMS AND CONDITIONS

PESTICIDE APPLICATION BUSINESSES — In general, no firm or individual may, for compensation, engage in the business of applying pesticides on the property of another without being licensed as a pesticide business. Among other prerequisites, licensing requires payment of an application or renewal fee and proof of financial responsibility, in the form of a surety bond or liability insurance covering potential damages from pesticide accidents.

COMMERCIAL APPLICATORS — With few exceptions, no one may apply any restricted-use pesticide without a commercial applicator's certificate, or unless working under the supervision of a certified applicator. Applicants for such a certificate must pay an application fee and pass a written examination evidencing adequate knowledge concerning the proper use and application of pesticides in the category for which the applicant has applied. The test contains, in part, elements on (1) the proper use of equipment, (2) pesticide hazards, including the effects of drift, meteorological conditions and precautions, the effect of pesticides on plants and animals, and other risks, (3) calculating chemical concentrations, (4) identification of pests, (5) protective clothing and equipment, (6) disposal of containers and decontamination procedures, and (7) state and federal pesticide laws and regulations.

PRIVATE APPLICATORS — In lieu of obtaining a commercial applicator's certificate, agricultural producers and certain other individuals intending to use restricted-use pesticides without compensation may apply for a private applicator's certificate. The state agency may grant such a certificate to applicants who (1) pay the required application fee, (2) pass an open-book examination indicating knowledge of pesticide problems, proper storage, handling and disposal procedures, pesticide labeling, pesticide use safety, and environmental considerations, and (3) meet various other conditions.

RECORDKEEPING — Each pesticide application business operating in Kansas must present to each customer for whom pesticide control services are performed a written statement of services showing, among other information, the name and address of the business and the customer, the pesticide used, the date and location of the application, and the wind direction and speed at the time of application. Comparable records are required to be maintained by certified commercial applicators not employed by or acting for a business licensee.

UNLAWFUL ACTS — It is unlawful for anyone to use pesticides in a manner inconsistent with the product label, to discard or store any pesticide or pesticide container in a manner which would cause injury to humans, vegetation, crops, livestock or wildlife, or to fail to comply with the Pesticide Law or its associated regulations. It is also illegal for anyone required to be licensed or certified under the law to knowingly operate faulty or unsafe equipment, to fail or neglect to keep required records or make required reports, or to use any method or material without considering the health, safety or welfare of the public.

DAMAGE CLAIMS — A person sustaining damage or injury from a pesticide application has 60 days after the date the damage or injury is discovered to submit to the state agency a written statement on a prescribed form, identifying the nature and extent of the damage and the name of the person alleged to be responsible, if known. Failure to submit a claim creates a rebuttable presumption that the alleged damage did not result from the pesticide application, but does not preclude the maintenance of any civil or criminal action.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide and Fertilizer Program, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6688). In enforcing these provisions, the Department and its agents may enter any premises at any reasonable time, in order to inspect equipment, sample soil or crops, inspect storage or disposal areas, and investigate complaints of injury to humans, crops or land. The agency may also subpoena records and compel the attendance of witnesses at hearings. Violation of any provision of the Pesticide Law by a licensee or certificate-holder may lead the Department to suspend or revoke such license or certificate.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Criminal prosecution for violations is the duty of county or district attorneys, or upon their refusal to act, the state attorney general.

KANSAS ANHYDROUS AMMONIA LAW

STATUTORY CITATION: Kan. Stat. §§ 2-1212 - 2-1219

RELATED REGULATIONS: Kan. Admin. Regs. §§ 4-10-1 - 4-10-17

GENERAL SUMMARY: For the safety of farm fertilizer users and the public at large, the Kansas Anhydrous Ammonia Law directs the state agriculture board to adopt regulations for the safe handling, storage and transportation of anhydrous ammonia, and defines certain unlawful acts involving the use of ammonia.

SPECIFIC TERMS AND CONDITIONS

REGULATORY STANDARDS — Tanks or other containers used to transport anhydrous ammonia to and from the fields, or to apply ammonia to the soil, must comply with regulatory standards established by the agriculture board, as outlined in brief below.

On-Farm Transportation Systems — Tanks that are mounted on wagon-type farm vehicles and used to transport ammonia must be designed according to quantitative and qualitative safety specifications, must be equipped with prescribed gauges, valves and hoses, and must be properly marked with identifying information and warnings. Each tank must be securely attached to its vehicle or trailer, and there must be a 5-gallon container of water on the trailer or inside the pulling vehicle.

On-Farm Application Systems — Containers attached to tractors or other farm implements and used for the application of anhydrous ammonia must be constructed, equipped, mounted and labeled with warning and safety information as prescribed in the regulations. A 5-gallon container of water must be carried on the trailer to which each ammonia tank is attached, or carried inside the pulling vehicle.

PROHIBITED ACTS — Among other offenses defined in the statute, it is unlawful for anyone to use any equipment intended for the handling of anhydrous ammonia when such equipment is defective or otherwise unsafe.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide and Fertilizer Program, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6688). Department inspectors have the right to enter private property to inspect ammonia facilities and equipment. When inspection reveals evidence of a violation, the agency may issue a warning or stop-use order and may also pursue prosecution in the courts. Violators are subject to a fine of up to \$500

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE AND MAXIMUM HOURS LAW

STATUTORY CITATION: Kan. Stat. § 44-1201 - 44-1213

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law requires all Kansas employers not covered by the federal minimum wage law and not otherwise exempted from the state statute, to pay their employees at least \$7.25 for every hour of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM WAGE AND MAXIMUM HOURS LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Kan. Stat. § 44-1201 - 44-1213

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law requires most Kansas employers to pay their covered employees no less than 1¹/2 times their regular hourly wage for every hour of employment in excess of 46 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT LAWS

STATUTORY CITATION: Kan. Stat. §§ 44-313 - 44-327

GENERAL SUMMARY: Article 3 of the state labor laws contains provisions regulating pay periods, payment of final wages, wage deductions and withholding, and certain payment notifications. The wage payment laws are applicable to employers and employees in all industries and occupational classifications.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Every employer must pay workers' wages at least once each calendar month, on regular paydays designated in advance by the employer. The end of the pay period for which payment is made may not be more than 15 days before such payday.

MEDIUM OF PAYMENT — Unless a bank deposit system is approved for the respective employer by the state, wages must be paid to the worker in lawful U.S. money, by check or comparable draft negotiable in the local community, by direct deposit to a banking institution designated by the worker, or by a debit-type payroll card.

FINAL PAY — Whenever an employer discharges a worker or the worker quits, the employer must pay earned wages no later than the next regular payday.

DEDUCTIONS AND WITHHOLDING — No employer may withhold, deduct or divert any portion of an employee's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for health care or services, without financial gain to the employer, and are recorded as such in the employer's books, (3) the deductions are authorized in writing by the employee and are for a lawful purpose for the employee's own benefit, or (4) the deductions are for contributions to an approved employee retirement plan.

Exceptions — Provided there is a signed written agreement between the employer and the worker, employers are permitted to withhold any portion of a worker's wages to allow repayment of a loan made by the employer, to allow for recovery of a payroll overpayment, or to recover the cost of employer-provided items such as uniforms. Employers may also recoup such costs from a worker's final wages, as long as the employer provides written notice and explanation. However, amounts withheld under these circumstances must not result in reduction of a worker's wages to below the applicable federal or state minimum wage.

NOTIFICATIONS TO EMPLOYEES — At the request of any worker, the employer must (1) notify the worker in writing as to the rate of pay and the date and place of wage payments, (2) give the worker advance written notification of any change in these terms or conditions, (3) provide written notice of the employee benefits to which the worker is entitled, and (4) furnish the worker with an itemized statement of deductions made from the worker's wages for each pay period such deductions are made.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-296-5000, extension 1068). The Department has the duty and explicit authority to investigate alleged violations of these provisions, and may hold hearings and make workplace inspections in order to fulfill that responsibility. If the Department finds, after investigation and an opportunity for hearing, that a particular wage claim is valid, it may issue an order for payment and assess damages and interest against the offending employer. At the request of the claimant, the Department may take assignment of the claim in trust and take appropriate action to enforce payment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

EMPLOYEE PROTECTION LAWS (WAGE PAYMENTS TO MIGRANT WORKERS)

STATUTORY CITATION: Kan. Stat. § 44-126

GENERAL SUMMARY: The state labor laws include explicit provisions for the protection of migrant workers in Kansas, including a provision relevant to wage payments.

SPECIFIC TERMS AND CONDITIONS: Farm operators and other agricultural establishments which employ migrant workers, and the agents of such establishments who are responsible for the payment of workers' wages, must make wage payments directly to the individual worker. Payments for the worker's labor or services may not be made or entrusted to a crew leader under any circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Violations of these provisions are treated as a misdemeanor criminal offense, and any crew leader convicted of a violation is barred from doing business in Kansas for a period of 2 years. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

KANSAS WITHHOLDING AND DECLARATION OF ESTIMATED TAX ACT

STATUTORY CITATION: Kan. Stat. §§ 79-3294 - 79-32,108a

GENERAL SUMMARY: The Kansas Withholding and Declaration of Estimated Tax Act compels every employer who is required under the Internal Revenue Code to withhold federal income tax from the pay of any wage earner residing or employed in Kansas, to deduct an additional amount corresponding to the worker's liability for state income tax.

On or before January 31 of the following calendar year, the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Kansas must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Taxation, Kansas Department of Revenue, Topeka, Kansas 66612 (785-296-6121).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kentucky

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Kentucky

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Ky. Rev. Stat. §§ 339.205 - 339.990

GENERAL SUMMARY: Kentucky's child labor laws regulate the employment of minors under the age of 18, by generally forbidding the use of workers under 14 years of age in most occupations in the state, restricting the time of day and maximum hours during which minors age 14 and over may work, prohibiting employment of minors in certain hazardous occupations, and requiring employers to provide minors with a lunch period under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE: The state child labor laws do not apply to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 159.010 - 159.270

GENERAL SUMMARY: With only limited exceptions, the compulsory attendance law requires each parent, guardian or other person residing in Kentucky and having charge of a child who is at least 6 years of age, but who has not reached the age of 18, to send the child to a regular public day school for the full term that the local public schools are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance requirement applies to every child in the affected age group who resides in Kentucky, and neither the child nor the person in charge of the child is excused from compliance or the penalties for non-compliance on the ground that the child's residence is seasonal or that the parent is a resident of another state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compulsory school attendance is monitored and enforced by each school district's Director of Pupil Personnel, who is vested with police powers comparable to those of peace officers and may investigate any case of non-attendance at school by any child of compulsory school age or suspected of being of that age. To check compliance with the school attendance provisions, pupil personnel directors are authorized to enter any premises where children are employed. In accordance with local school board policies, such officers may institute legal proceedings against any person violating the attendance law, after notice and opportunity for corrective action. Any parent, or any person standing in the place of a parent, who willfully fails to comply is subject to a fine

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

CIVIL RIGHTS LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 344.010 – 344.990

GENERAL SUMMARY: The Kentucky civil rights law seeks to safeguard individuals in the state against discrimination because of race, color, religion, national origin, sex, age, disability, and smoking status. The law's anti-discrimination provisions apply to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal for any employer who has 8 or more employees in Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to compensation or other terms, conditions or privileges of employment, because of the individual's race, color, religion, national origin, sex, or age (over 40), or because the individual is a smoker or non-smoker.

Similar discriminatory practices against a worker based on the worker's disability are unlawful when committed by an employer who is engaged in any industry affecting commerce and who has 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year.

Comparable discriminatory acts by employment agencies and labor organizations are likewise prohibited.

EXCEPTIONS — The law does not preclude certain job referral, hiring, employment or membership practices by employers, employment agencies or labor organizations which make distinctions on the basis of religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification necessary to the normal operation of the particular business or enterprise. Similarly, it is not unlawful to apply different standards of compensation, or different terms or conditions of employment, pursuant to a bona fide seniority or merit system, or any other personnel system, as long as such differences are not intended to discriminate on the basis of race, color, religion, national origin, sex, age or disability.

COMPLAINTS — Anyone claiming to have been subjected to a discriminatory employment practice may file a written complaint with the state enforcement agency, at any time within 180 days after the occurrence of the alleged unlawful practice. If the state agency staff finds probable cause to believe the complaint is valid, the staff must attempt to reach an agreement with the offending party to eliminate the practice through conciliation. If no such agreement is reached within 60 days of the filing of the complaint, the state agency may summon the respondent to a hearing to answer the allegation, and if the hearing confirms a violation of the civil rights law, the agency may issue an order for corrective action. The agency's order may include restitution, in the form of hiring, reinstatement or promotion, with or without back pay, as well as payment of damages to the complainant.

SPECIAL NOTES OR ADVISORIES

PREEMPTION OF JURISDICTION — The Commission is barred from taking jurisdiction over any claim of discrimination under the state civil rights law while a claim by the same person seeking relief for the same grievance is pending in state circuit court. Conversely, a state court may not consider any claim of an unlawful practice under the civil rights law while a claim by the same person seeking relief for the same grievance is pending before the Commission. A final determination by a state court or the Commission precludes any other action or proceeding brought by the same person based on the same grievance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Branch, Kentucky Commission on Human Rights, Louisville, Kentucky 40202 (502-595-4024; toll-free 800-292-5566). For the purpose of enforcing compliance with the state civil rights law, representatives of the Commission have authority to enter places of employment, review personnel records, interview employees, hold hearings, and take sworn testimony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Except as limited by the preemption provision noted above, a worker aggrieved by an unlawful act of employment discrimination by an employer subject to these provisions may take civil court action against the alleged violator directly, by consulting a private attorney or public legal service provider.

WAGE DISCRIMINATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.420 – 337.433

GENERAL SUMMARY: Every employer who has 2 or more employees in Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year is forbidden from discriminating between employees in the same establishment on the basis of sex, by paying wages to an employee in any occupation at a rate less than the rate paid to an employee of the opposite sex for comparable work, on jobs which have comparable requirements relating to skill, effort and responsibility. Wage differentials paid pursuant to an established seniority system or merit increase system which does not discriminate on the basis of sex are generally not within this prohibition.

PROVISIONS APPLICABLE TO AGRICULTURE: As in most other industries, agricultural establishments which employ 2 or more workers in 20 or more different calendar weeks in the current or preceding calendar year are subject to the wage discrimination provisions.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any such act of retaliation is regarded as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). The Department has authority to investigate reported or suspected violations of the wage discrimination provisions at any place of employment in the state, to inspect records, to interview employers and workers, to hold hearings, and to subpoena witnesses. The Department must try to eliminate discriminatory wage practices by informal means, but if necessary may bring legal action against any employer on behalf of any employee claiming to have been paid less than equal wages required under the law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HEALTH AND SAFETY

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 - 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:600, §§ 1 - 2

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act imposes on most employers in the state the duty to furnish their employees with a job and workplace free from life- and health-threatening hazards, and authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state. Employers and employees are obligated to comply with any such standard applicable to their respective employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Kentucky's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218). In response to a complaint or on its own initiative, representatives of the Division may, without delay and advance notice, enter any place of employment at any reasonable time to inspect working conditions, question the employer and workers, and review records to determine the cause of or prevent the occurrence of any occupational injury or illness. At the same time, any covered employee who believes a violation of a state occupational safety and health standard has occurred, or that imminent danger exists, may request an inspection by giving written notice to the Division. After inspection and confirmation of a violation, the Division may issue a citation or abatement order, enforceable in court. Failure to correct a safety and health hazard carries both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 341.005 – 341.990

GENERAL SUMMARY: The unemployment compensation law provides for the collection of contributions to the state unemployment insurance fund from employers in the state, and authorizes the payment of benefits from the fund to eligible workers who are temporarily unemployed. In general, the law requires employers to pay contributions to the unemployment insurance fund if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other employing units that (1) paid wages of \$20,000 or more in any calendar quarter in the current or preceding calendar year for agricultural labor, or (2) employed for some part of a day in each of 20 different calendar weeks 10 or more workers performing agricultural labor, must pay contributions to the state unemployment insurance fund. Employers are normally liable for contributions computed against the first \$10,500 in wages paid to each worker in a calendar year for covered employment, using a UI tax rate determined annually for each employer according to the employer's past claims experience and other factors.

ELIGIBILITY FOR BENEFITS — Under most circumstances, an unemployed worker in Kentucky is eligible to receive UI benefits only if the individual (1) has made a claim for benefits, (2) has registered for work, (3) is physically and mentally able to work, (4) is available for suitable work and making a reasonable effort to obtain work, and (5) during the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$750 in the one quarter when wages were highest, earned at least \$750 outside the peak quarter, earned at least 1½ times the peak-quarter wages for the entire four-quarter base period, and earned at least 8 times the weekly benefit amount (defined below) in the last 6 months of the base period.

AMOUNT OF BENEFITS — The weekly benefit amount payable to an eligible unemployed worker is generally equal to 1.3078 percent of the worker's total earnings over the four-quarter base period, but in no case less than \$39 or more than 55 percent of the average weekly wage for all insured employment in the state the previous calendar year. For any week of unemployment, an eligible claimant is entitled to receive the weekly benefit amount, minus 80 percent of any wages earned that week and certain miscellaneous deductions, if applicable.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. The crew leader is also deemed to be the employer where most members of the crew operate or maintain any mechanized equipment. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Employment and Training, Kentucky Department of Workforce Investment, Frankfort, Kentucky 40601 (502-564-5331). This agency is responsible for administering most aspects of the unemployment insurance system, including employer tax liability determinations and appeals, collection of UI taxes, benefit claims and appeals, and payment of benefits. Unemployed workers who believe they may be eligible for benefits may file a claim online, at uiclaims.des.ky.gov/ebenefit/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Unemployment Insurance Commission, Education and Workforce Development Cabinet, Frankfort, Kentucky 40621 (502-564-4849). The Unemployment Insurance Commission serves as an appeals board to hear and decide appeals to unemployment insurance determinations made by the primary administrative agency.

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 342.0011 - 342.990

GENERAL SUMMARY: Kentucky's workers' compensation law makes most employers in the state liable for payment of compensation in the event of a worker's employment-related injury, occupational disease or death, without regard to fault as a cause. Employers subject to the law must either insure their liability through purchase of an approved workers' compensation insurance policy, or furnish satisfactory proof of their financial ability to pay compensation directly. Compensation payable on a valid claim includes periodic cash income benefits in lieu of lost wages, medical treatment, appropriate rehabilitation expenses, required supplies and appliances, and burial expenses.

If an employer secures payment of compensation as obligated, the employer is not subject to any further liability in connection with an employee's work-related injury or death. Failure, however, to comply with compensation coverage requirements gives an injured worker (or the surviving dependents of such a worker) the right to sue and recover damages in a civil action, and in any such action the employer may not plead as a defense that the worker's injury was caused by the negligence of a co-worker, that the worker had assumed the risks of the job, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law **does not apply** to any person employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Department of Workers' Claims, Frankfort, Kentucky 40601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

KENTUCKY FERTILIZER AND PESTICIDE STORAGE, USE AND APPLICATION ACT OF 1996

STATUTORY CITATION: Ky. Rev. Stat. §§ 217B.010 - 217B.585

RELATED REGULATIONS: 302 Ky. Admin. Regs. 27:010 - 27:060

GENERAL SUMMARY: The Kentucky Fertilizer and Pesticide Storage, and Pesticide Use and Application Act regulates the use and application of insecticides, fungicides, herbicides, defoliants, desiccants, plant growth regulators, nematocides, rodenticides and other pesticides in the state, as well as the storage of fertilizers. Of particular relevance to agricultural worker safety, the Act requires licensing of pesticide applicators and operators, defines various unlawful acts involving pesticides and pesticide applicators, establishes procedures for filing and investigating pesticide-related damage claims, and authorizes adoption of related administrative regulations.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may engage in the business of applying pesticides to another party's land in Kentucky without first obtaining a license from the state authorizing such activity. Issuance of an applicator's license requires the applicant (1) to pay an annual license fee, plus an inspection fee for each aircraft and each unit of ground equipment to be licensed, and (2) to pass an examination demonstrating a working knowledge of proper use of pesticide equipment, the hazards involved in applying such substances (including their toxicity to plants and animals and the effects of drift), calculating appropriate concentrations, identification of pests, protective clothing and equipment, pesticide disposal and decontamination, and state and federal pesticide laws and regulations. Employees of pesticide applicators who intend to apply pesticides manually or as operators in charge of any pesticide equipment must also be licensed, under similar preconditions.

UNLAWFUL ACTS — Among other offenses defined in the law, it is illegal for any licensee (1) to refuse or neglect to keep required records or make required reports, (2) to operate unlicensed, faulty or unsafe equipment, or (3) to operate in a faulty, careless or negligent manner. Furthermore, it is a crime for anyone, licensed or unlicensed, (1) to use any registered pesticide in a manner not in accordance with its label, (2) to purchase, use or supervise the use of a pesticide unless the individual is certified in a classification permitting the individual to do so, or (3) to discard or store any pesticide or pesticide container in a manner that would cause injury to humans, vegetation, crops, livestock, wildlife or pollinating insects.

DAMAGE CLAIMS — Any person claiming damages from a pesticide application may file a written statement with the state enforcement agency on the prescribed form. Under most circumstances, to be considered timely the statement must be filed within 60 days after the date the damages occurred. The agency will immediately notify the applicator involved, the owner or lessee of the land where the application was targeted, and any other person who may be charged with responsibility for the damages claimed. Failure by the claimant to allow the applicator or any representative of the applicator (such as a bonding agent or insurance carrier) to observe the property or non-target organism alleged to have been damaged automatically bars any claim against the applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agriculture Branch, Division of Environmental Services, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture, Frankfort, Kentucky 40601 (502-782-9240). This agency both administers the licensing of pesticide applicators in the state and enforces compliance with the substantive standards governing their activities. Agents of the Department have authority to enter upon any public or private premises at reasonable times in order to inspect licensed or unlicensed pesticide equipment, inspect lands exposed to pesticides, inspect storage and disposal sites, investigate reports of injury to humans or land, and sample pesticides being applied or to be applied. Among the remedies available to the Department in response to a violation of the Act or its associated regulations are (1) suspension, revocation or non-renewal of an applicator's license or equipment license, and (2) recovery of civil penalties against the violator in state court. The Act prescribes criminal penalties to which offenders are also subject.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 - 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:320

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Kentucky's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218). After inspection and confirmation of a violation, the Division may issue a citation or abatement order, enforceable in court. Failure to correct a safety and health hazard carries both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 - 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:307

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Standards for the storage and handling of anhydrous ammonia have been adopted under the authority of the state Occupational Safety and Health Act. Those standards are identical to the anhydrous ammonia regulations established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.275 - 337.405 and § 337.010

GENERAL SUMMARY: Kentucky's minimum wage law establishes a wage floor of \$7.25 an hour, applicable to most industries and occupational classifications in Kentucky. The law prescribes an automatic increase in the state minimum wage to match the federal minimum wage, whenever the federal rate increases and effective the same date.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage does not apply to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.285 and 337.010

GENERAL SUMMARY: With various exceptions, the state minimum wage law provides that no employer may employ any worker for a workweek longer than 40 hours, unless the worker receives compensation for employment in excess of 40 hours at a rate not less than 11/2 times the worker's regular hourly wage.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the state minimum wage law **do not apply** to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS (SEVENTH-DAY OVERTIME)

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.050 and 337.010

GENERAL SUMMARY: Among other worker protections, Kentucky's wage payment laws include a provision establishing an employee's right to overtime pay for work on the seventh day of the week under certain prescribed circumstances. This provision applies to agricultural workers to the same extent as most other classes of employees.

SPECIFIC TERMS AND CONDITIONS: Employers in the state who permit an employee to work 7 days in any one workweek must pay the employee time-and-a-half for hours worked on the seventh day, provided the employee has been permitted to work more than 40 hours during the workweek.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). This agency is charged with enforcement of the wage payment laws and may bring legal action against any employer to effect compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MINIMUM WAGE LAW (LUNCH AND REST PERIODS)

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.355, 337.365 and 337.010

GENERAL SUMMARY: With no explicit agricultural exceptions, workers in the state have a right to a lunch break and compensable rest periods during working hours each workday.

SPECIFIC TERMS AND CONDITIONS: Employers must provide their workers with (1) a reasonable daily lunch break, no sooner than 3 hours and no later than 5 hours after the start of the workday, and (2) a rest period of at least 10 minutes during each 4 hours of work. The rest period must be treated as paid work time for hourly and salaried employees, and must be provided in addition to the regularly scheduled lunch break.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). The Department is authorized to investigate any complaint charging a violation of these provisions, and for that purpose may enter any place of employment, inspect payroll records and interview workers. A finding by the Department of a violation and any subsequent order for corrective action may be enforced in the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who has been denied lunch breaks or compensable rest periods on the job may enforce compliance directly, by filing a civil action against the offending employer.

WAGE PAYMENT LAWS

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.020, 337.055, 337.060, 337.070

GENERAL SUMMARY: The state wage payment laws set general standards for the payment of wages, applicable to virtually all employing establishments in Kentucky. In large part, these provisions regulate paydays, final compensation, wage withholding, and pay statements.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer doing business in Kentucky must generally pay each employee as frequently as twice a month, and each employee must receive all wages earned up to a day not more than 18 days prior to the date of payment. Any worker who is absent on the designated payday or for any other reason is not paid at that time must receive his or her earnings within 6 days after demand for payment.

FINAL PAY — Any worker who leaves or is discharged from employment must be paid all earnings in full no later than the next regular payday, or within 14 days after termination, whichever is later.

WITHHOLDING — No employer may make any deduction from a worker's wages unless the deduction is authorized by local, state or federal law or it is authorized in writing by the worker for a legitimate employee benefit. It is illegal under most circumstances, however, for an employer to make a deduction to cover fines, breakage, losses due to lost or stolen property, losses due to property damage, or other comparable occurrences.

PAY STATEMENTS — Like most other employers in the state, farm operators who employ 10 or more workers and make any deductions from their pay are required to furnish each such worker, at the time of payment, a statement showing the amount of each deduction and the general purpose for which the deduction is made.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). This agency is charged with enforcement of the wage payment laws and may bring legal action against any employer to effect compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Workplace Standards, a worker who has not been paid in accordance with these provisions may take civil action against the employer directly, using private counsel or a public legal service provider.

INCOME TAX LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 141.010 - 141.990

GENERAL SUMMARY: The state income tax law levies an annual tax on the net income of every Kentucky resident and authorizes the withholding of state income tax from wage payments by employers, to the extent that such wages are subject to federal income tax withholding.

On or before January 31 of the following calendar year — or on the day of the last payment of wages, in the case of an employee whose job terminates before the close of the current calendar year — the employer is required to provide the employee with a written statement showing (1) the employer's name, (2) the employee's name and Social Security number, (3) the employee's gross wages, and (4) the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Kentucky must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Individual Income and Withholding Tax Division, Office of Income Taxation, Kentucky Department of Revenue, (502-564-7007, extension 7552).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

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Louisiana

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CHILD LABOR

O CHILD LABOR LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:151 - 23:251

GENERAL SUMMARY: With some exceptions, Louisiana's child labor law prohibits the employment of children under the age of 14, prescribes various age thresholds below which employment in the associated trades or occupations is prohibited, requires minors to obtain an employment certificate prior to hiring, and restricts the hours during which minors may lawfully be employed. Likewise, no minor covered by the statute may be employed or permitted to work for more than 5 continuous hours without a meal period of at least 30 minutes' duration.

PROVISIONS APPLICABLE TO AGRICULTURE: The Louisiana child labor law **does not apply** to minors employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: La. Rev. Stat. § 17:221 – 17:235.2

GENERAL SUMMARY: In general, every parent or other person residing in Louisiana and having control or charge of any child between the ages of 7 and 18 must send such child to a public or private day school and assure the child's attendance in regularly assigned classes during regular school hours established by the school board. Among other exceptions, 16- and 17-year-olds may withdraw from school to enroll in an alternative education program or vocational-technical education program, on application by their parent or legal guardian to the local school district.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law applies without respect to the employment status of the school-age child or the child's custodian. Children in the age range subject to compulsory school attendance may not be excused from school to work at any time in any job, including agriculture, even in the employ of their own parents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory school attendance provisions are enforced by parish and city school boards, and by district family or juvenile courts. Local attendance officers employed by their respective school boards are responsible for investigating cases of non-attendance and unexcused absences from school by all children within the affected age range.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Louisiana Department of Education, Baton Rouge, Louisiana 70804 (225-219-5172; toll-free 877-453-2721). The state superintendent of education has authority to appoint staff in the Department of Education whose primary responsibility is supervision and enforcement of the compulsory school attendance provisions.

CIVIL RIGHTS

LOUISIANA EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:301 – 23:369

GENERAL SUMMARY: Chapter 3-A of the state labor laws contains, among other provisions, prohibitions against employment discrimination on the basis of race, color, religion, sex, national origin, age (over 40), disability, sickle cell trait, or protected genetic information. In general, it is illegal for an employer in Louisiana to refuse to hire, to fire, or to intentionally discriminate against an individual with respect to wages or the terms and conditions of employment on any of the grounds listed above. Likewise, no employer may discipline or fire a veteran for taking time away from work to attend medical appointments required to receive veterans benefits.

These provisions apply to all employers in the state who employ 20 or more workers for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

In addition to the protected categories listed above, Chapter 3-A also generally prohibits employers with more than 25 employees for each working day in 20 or more calendar weeks from refusing to promote a female employee because of pregnancy or childbirth, or from denying such an employee the same benefits and employment privileges granted other employees.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural workers to the same extent as they do to workers in non-agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Louisiana Commission on Human Rights, Office of the Governor, Baton Rouge, Louisiana 94094 (225-342-6969). Among other functions, the Commission is charged with receiving, investigating, seeking to conciliate, and deciding on complaints of employment discrimination under these provisions. A worker who believes he or she has been subjected to a prohibited act may file a complaint with the Commission within 180 days after the alleged unlawful practice occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Any parish or municipality, or one or more parishes and municipalities acting jointly, may create a local human rights commission, and as such may receive and process complaints of employment discrimination prohibited by these provisions. Within their respective jurisdictions, local commissions have enforcement authority comparable to the state Commission on Human Rights. Likewise, the state Commission may enter into a cooperative agreement with any local commission that has professional staff and enforceable ordinances, orders, or resolutions. Currently, the cities of New Orleans and Alexandria are the only local commissions in that category.

PRIVATE CIVIL ACTION — A worker who has been subjected to unlawful employment discrimination may file suit in the district court for the parish in which the alleged discrimination occurred, seeking general or special compensatory damages, back pay, related benefits, reinstatement, reasonable attorney's fees and court costs. In general, a civil action cannot be filed any earlier than one year after the discrimination occurred, and the worker must give the employer involved at least 30 days' notice before filing.

STATE LABOR LAWS (INDIVIDUAL RIGHTS)

STATUTORY CITATION: La. Rev. Stat. §§ 23:961 - 23:968

GENERAL SUMMARY: Chapter 9, Part III of the state labor statutes contains provisions, applicable to all industry sectors, banning interference by employers with certain individual rights of their employees, including the free exercise of political rights, the expression of political opinions, the exercise of consumer choice, and the right to benefit from labor protections.

SPECIFIC TERMS AND CONDITIONS

POLITICAL RIGHTS — No employer who regularly employs 20 or more workers may forbid or prevent any such worker from participating in politics or running for public office, nor may such an employer control or direct the political activities or affiliations of any employee, or coerce or influence the political activities of an employee through threats of discharge or loss of employment.

POLITICAL OPINIONS — It is illegal for any planter, manager, overseer or other employer of laborers, regardless of number, to discharge any such laborer prior to the expiration of the term of service on account of the laborer's political opinions, or to control the vote or restrict the voting rights of a worker by any agreement or contract whatsoever.

PURCHASE OF MERCHANDISE — An employer may not coerce or require any of his or her employees to deal with or purchase any article of food, clothing or merchandise of any kind (other than work uniforms) from any particular person or establishment, or penalize any worker for failing to do so.

EXERCISE OF LABOR PROTECTIONS — All employers in Louisiana are prohibited from discharging or discriminating in any other manner against any employee because the employee has testified in an investigation or proceeding relative to the enforcement of any state labor law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679). This agency may institute civil proceedings in the appropriate district court to enforce its rulings, or seek injunctive relief to restrain and prevent violations of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — With respect to an apparent violation of an employee's political rights, as described above, the worker has a right to private civil action against the employer involved, for recovery of damages and other equitable relief.

HEALTH AND SAFETY

○ STATE LABOR LAWS (EMPLOYERS' DUTY AS TO SAFETY)

STATUTORY CITATION: La. Rev. Stat. § 23:13

GENERAL SUMMARY: Chapter 1, Part I of the Louisiana labor laws imposes an obligation on most Louisiana employers to furnish employment that is reasonably safe for their employees. Subject employers must provide and use safeguards, and adopt and use methods and processes, reasonably adequate to render the job and workplace safe, considering the normal hazard of such employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The employer's duty to assure safety in the workplace **does not apply** to employment in agricultural field operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

■ LOUISIANA EMPLOYMENT SECURITY LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:1471 - 23:1749.8

GENERAL SUMMARY: The Louisiana Employment Security Law establishes an unemployment compensation fund, requires most employers in the state to contribute to the fund in proportion to the wages they pay, and authorizes the payment of benefits from the fund to unemployed workers who have sufficient wage credits from insured employment and meet other benefit eligibility conditions. Most employers in the state must pay taxes to the UI fund if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some portion of a day in each of 20 different weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm or plantation operator or other agricultural establishment that (1) during any calendar quarter of the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 or more different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is liable for unemployment insurance taxes on behalf of its workers. Subject employers are taxed at a rate determined each year by the state administering agency, applied against the first \$7,000 to \$8,500 in wages paid to each worker during the calendar year, depending on the trust fund balance.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other claimant, is generally eligible to receive UI benefits if the state agency finds that the claimant (1) has registered for work and continued to report to the state employment office, (2) is able to work, available for work, and actively searching for work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned from insured work at least \$1,200 and at least 11/2 times the insured wages received during the one quarter in which wages were highest.

AMOUNT OF BENEFITS — An eligible worker's weekly benefit amount is equal to 1/25 of the worker's average wages over the four-quarter base period, multiplied by 1.05 and again by 1.15, up to a maximum weekly benefit amount of either \$247, or 66 2/3 percent of the statewide average weekly wage as of the preceding March 31, whichever is less; the minimum benefit amount for such workers is \$10. An eligible individual who is only partially unemployed in any week is entitled to a benefit equal to the weekly benefit amount, minus any wages earned that week in excess of \$50, or in excess of 50 percent of the weekly benefit amount, whichever is less.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Unemployment Insurance Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (toll-free 866-783-5567). The Department has control over all aspects of the unemployment insurance program, including determination of employer liability for UI taxes, collection of taxes from subject employers, processing of UI claims, hearings and decisions on appeals by employers and claimants, and payment of benefits. Jobless workers wishing to apply for benefits may file online at www.laworks.net, or by phone at 866-783-5567.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ LOUISIANA WORKERS' COMPENSATION LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:1020.1 - 23:1379

RELATED REGULATIONS: La. Admin. Code Title 40, Part I

GENERAL SUMMARY: Under the Louisiana Worker' Compensation Law, if a covered employee receives personal injury in an accident arising out of and in the course of employment, or is disabled by an occupational disease, the employer must pay compensation, consisting of (1) weekly cash disability payments to the worker, (2) cash death benefits and burial expenses to the worker's surviving dependents in the event of the worker's occupationally related death, (3) payment of medical, surgical and hospital services, medicines, prosthetic devices and related medical expenses, and (4) other specified costs.

An employer's liability may be met by means of a prescribed policy of workers' compensation insurance, self-insurance, or participation in a group self-insurance fund. Failure by an insurer or self-insuring employer to pay a valid claim within 60 days after receipt of notice of an injury may result in monetary sanctions against the insurer or employer, in addition to the amount of the claim due.

PROVISIONS APPLICABLE TO AGRICULTURE: With one notable exception, the Louisiana Worker's Compensation Law generally applies to agricultural and non-agricultural employers and employees alike.

EXCEPTION — The law *does not apply* to farmworkers who (1) are employed in the cultivation of the soil, or in the raising or harvesting of any agricultural commodity, by a private unincorporated farm with a total net payroll of \$2,500 or less, and (2) receive annual net earnings of \$1,000 or less.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Workers' Compensation Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-7555). This agency is responsible for monitoring injury and payment reports submitted by subject employers, and for helping to resolve disagreements between claimants, employers and insurers regarding coverage, eligibility for benefits and benefit payments. Any worker who is injured on the job or suffers disability due to an occupational disease should notify the employer as soon as possible, but in no case later than 30 days after the date of injury or onset of the disability. If at any time after notification of an occupationally related death, or an injury resulting in more than 7 calendar days' lost work time, a dispute arises over payment of compensation, or if the employer or insurer fails to pay compensation, the worker or dependent of the worker may file a Disputed Claim for Compensation (Form LWC-WC 1008) with a Workers' Compensation district office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT SERVICE LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:101 - 23:115

GENERAL SUMMARY: Among the state labor laws are provisions regulating the operations of individuals and businesses that charge workers a fee to find or attempt to find them employment. These provisions apply to both agricultural and non-agricultural employment situations.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one operate, solicit or advertise a service that charges a fee to the worker to match workers with jobs without first obtaining a license to do so from the state. As prerequisites for receiving a license, initial applicants must pay a \$200 annual license fee, a \$300 investigation fee, and a \$100 examination fee.

BOND — License applicants must obtain and maintain in effect a \$5,000 surety bond, covering potential damages resulting from operation of their business.

FEES FOR SERVICES — The fees charged by a private employment service must be reasonable and are subject to numerous restrictions and conditions spelled out in the law.

PROHIBITED ACTS — Among other prohibited conduct, employment agencies may not (1) share the fees they collect from one party with any other party to the employment arrangement, (2) knowingly publish any false, fraudulent or misleading information related to a job or employment, or (3) send a worker to a worksite where a strike or other labor dispute is in progress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679). This agency is responsible for licensing of private employment services in the state, and for investigating and prosecuting complaints of violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

AGRICULTURAL LABORERS' RIGHT TO WORK LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:881 - 23:889

GENERAL SUMMARY: The Agricultural Laborers' Right To Work Law affirms certain labor rights applicable to farmworkers in Louisiana and prohibits agreements and practices which abridge those rights.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — No agricultural worker in Louisiana may be required by an employer to refrain from joining a labor union or labor organization as a condition of hiring or continued employment. At the same time, no farmworker may be required to become or remain a member of a labor union, or to pay union dues or similar assessments to a labor organization, as a condition of hiring or continued employment.

ILLEGAL AGREEMENTS — Any agreement, understanding or practice which has the effect of either prohibiting or compelling union membership as a condition of hiring or continued employment is declared illegal and contrary to public policy.

COLLECTIVE BARGAINING RIGHTS — The provisions summarized above may not be construed to deny or abridge the right of agricultural laborers by and through a labor organization or labor union to bargain collectively with their employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An agricultural worker who is denied employment or fired because of membership or non-membership in a labor union or labor organization is entitled to recover damages in a private civil suit against the employer or labor organization responsible for the violation. Likewise, any labor union or employer injured as a result of a violation or threatened violation of any of these provisions is entitled to injunctive relief against the party or parties committing or threatening a violation.

○ STATE LABOR LAWS (STRIKEBREAKING ACTIVITIES)

STATUTORY CITATION: La. Rev. Stat. §§ 23:900 - 23:904

GENERAL SUMMARY: It is generally unlawful for any person, firm or corporation which is not directly involved in a labor strike or lockout to hire or recruit any worker for a job, or to secure or offer to secure work for any worker, when the purpose or effect of such action is to have the worker take the place of a striking employee at a job site where a strike or lockout exists. It is likewise unlawful for a party not directly involved in a strike or lockout to import or transport anyone into Louisiana for the purpose of supplanting a striking worker at the site of a strike or lockout.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against strikebreaking activity **does not apply** to farming, agricultural pursuits, or the handling or primary processing of perishable raw agricultural commodities, or to those engaged therein.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

LOUISIANA PESTICIDE LAW

STATUTORY CITATION: La. Rev. Stat. §§ 3:3201 - 3:3391.12

RELATED REGULATIONS: La. Admin. Code Title 7, Part XXIII

GENERAL SUMMARY: The Louisiana Pesticide Law sets up a state pesticide registration program, regulates the sale and use of pesticides in Louisiana, establishes general procedures and authorizes adoption of specific rules for the safe treatment and disposal of pesticide wastes, and regulates structural pest control in the state.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF PRIVATE APPLICATORS — No agricultural producer may apply any restricted-use pesticide on his or her own crops without being certified by the state as a private applicator. Certification may be issued only after the applicant satisfactorily demonstrates knowledge of the laws, regulations and safety practices applicable to restricted-use pesticides. In addition to their own use of such compounds, certified private applicators are authorized to supervise the application of restricted-use pesticides by competent uncertified individuals.

CERTIFICATION OF COMMERCIAL APPLICATORS — It is unlawful for anyone to apply or supervise the application of any restricted-use pesticide commercially unless the individual has proper certification from the state to do so. The granting of certification is conditional on the applicant's successful completion of an examination evidencing knowledge and competency in the safe use and application of restricted-use products. Certified commercial applicators may supervise the ground application of such products by competent uncertified individuals but may not supervise aerial application of any pesticide by any uncertified person.

LICENSING OF OWNER-OPERATORS — No one may own or operate a business engaged in the application of pesticides for a fee unless the individual is properly licensed by the state. All aerial applicators employed by an owner-operator must be certified commercial applicators, and all ground applicators employed by an owner-operator must be certified commercial applicators or must work under the direct supervision of a certified commercial applicator.

BONDING, INSURANCE, AND DAMAGE CLAIMS — Prior to obtaining a license, each owner-operator must post a surety bond or secure liability insurance, in either case in an amount ranging from \$25,000 to \$50,000, depending on the scope of intended operation. Any person who suffers damages caused by any action of an owner-operator in connection with application of a pesticide may sue on the bond or insurance in any court of competent jurisdiction to recover the damages.

RECORDKEEPING — Owner-operators must keep records on each application of pesticides and must preserve such records for at least 3 years thereafter. The records must include such information as the name of the pesticide applied, the date and place of application, and the rate at which the substance was applied.

VIOLATIONS — Among numerous other offenses specified in the law, it is illegal for anyone involved in the application or use of pesticides in Louisiana (1) to knowingly operate faulty or unsafe equipment, (2) to operate in a faulty, careless or negligent manner, (3) to refuse or neglect to keep and maintain required records, (4) to apply a restricted-use pesticide without the appropriate certification or without required supervision, (5) to allow the application of a restricted-use pesticide by uncertified personnel without the presence of a certified applicator, when such presence is required, and (6) to apply any pesticide in a manner inconsistent with the product's label.

COMPLAINTS — A person who has suffered damages as a result of an action by anyone regulated under this law may file a damage complaint with the state enforcement agency, on the prescribed form, within 15 days of the alleged occurrence or the discovery of the damage, whichever occurs later. The right to bring suit for damages against the party or parties alleged to be responsible (including a suit on the bond or insurance of any owner-operator involved) will not be adversely affected by the claimant's failure to file a timely claim with the state agency, but refusal to permit the agency, the alleged offender or a representative such as a bonding agent or insurer to inspect the property or non-target organisms alleged to have been damaged will automatically bar an administrative claim against an applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476). The Department is responsible for testing, certification and licensing of pesticide applicators and owner-operators in the state, and for enforcing compliance with the rules and regulations governing their operations. With a duly executed search warrant, agents of the Department may investigate the circumstances of any suspected or reported violation of the Louisiana Pesticide Law on private property. Investigative authority also includes the right to subpoena witnesses and documents. Upon formal hearing, the Department may suspend, revoke or refuse to renew the license or certification of anyone found to have violated any of the law's provisions and may impose money penalties against violators when deemed appropriate.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LOUISIANA PESTICIDE LAW (AERIAL APPLICATORS)

STATUTORY CITATION: La. Rev. Stat. §§ 3:3201 - 3:3391.12

RELATED REGULATIONS: La. Admin. Code Title 7, §§ 1105 – 1113

GENERAL SUMMARY: As part of the regulatory framework established under the Louisiana Pesticide Law, the state agriculture commissioner has adopted specific rules governing the application of pesticide products by aircraft.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION — No one may apply pesticides from the air in Louisiana without being certified as a commercial applicator.

APPLICATION STANDARDS — With the single exception of mosquito control applicators, commercial applicators applying pesticides from fixed-wing aircraft must adhere to very specific requirements for booms, spray nozzles, and gallons-per-acre application restrictions.

TIME AND LOCATION LIMITATIONS — Aerial application of any pesticide is prohibited while it is raining. In general, no pesticide may be applied from the air within 100 feet from the edge of the swath to any inhabited structure, or within 1,000 feet of any school grounds during normal school hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476). A person who believes that he or she has suffered damages as a result of a pesticide application may file a damage complaint with the Department. Complaints must be in writing, on a form prescribed by the Department, signed, and submitted within 15 days after the alleged action or discovery of the damage, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE LABOR LAWS (EXPOSURE TO TOXIC SUBSTANCES)

STATUTORY CITATION: La. Rev. Stat. § 23:1016

GENERAL SUMMARY: Section 1016 of the state labor laws declares as public policy the right of workers exposed to toxic substances to obtain information concerning the nature of those substances and their adverse health effects. Current and former employees and their representatives have the right to access the employer's records of worker exposures to potentially toxic materials or harmful physical agents, and to related medical records.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies without regard to the industrial or occupational classification of the employer, employee or workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — A worker whose request for access to records under this law has been denied may file suit in civil court to enforce compliance, using a private attorney or public legal service provider. If the court rules in the complainant's favor, the worker is entitled to recover reasonable attorney's fees and court costs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

ANHYDROUS AMMONIA LAW OF LOUISIANA

STATUTORY CITATION: La. Rev. Stat. §§ 40:1911 - 40:1917

RELATED REGULATIONS: La. Admin. Code Title 55, Part IX, Ch. 15

GENERAL SUMMARY: In the interest of public safety, the Anhydrous Ammonia Law authorizes, among other measures, the adoption and enforcement of rules governing the storage, utilization, sale and transportation of anhydrous ammonia intended for use as a fertilizer.

SPECIFIC TERMS AND CONDITIONS: Using the authority noted above, the state Liquefied Petroleum Gas Commission has adopted the 1989 editions of the American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia (except for systems mounted on railcars). The following are key provisions relevant to agricultural employees working with or in proximity to anhydrous ammonia.

CONSTRUCTION OF CONTAINERS — Tanks used for the storage and transportation of anhydrous ammonia must be constructed in accordance with detailed specifications referenced in the ANSI standards. All such containers must be equipped with prescribed gauges and valves and must be properly marked with required warnings. Hoses, valves and other fittings must meet specified safety standards.

ON-FARM EQUIPMENT — Tanks attached to farm wagons or trailers for transportation of anhydrous ammonia to and from the fields must be securely mounted, and each wagon or trailer must be securely attached to the tractor or other vehicle pulling it.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Liquefied Petroleum Gas Commission, Louisiana Department of Public Safety and Corrections, Baton Rouge, Louisiana 70806 (225-925-4895). The law confers access rights to private farming operations on inspectors authorized by the Commission, for purposes of inspecting equipment used to dispense or apply anhydrous ammonia. To prevent or stop any violation of the safety standards applicable to this compound, the Commission is empowered to seek injunctive relief through the courts in the parish in which the agricultural operator is domiciled or where the violation is occurring.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

WAGE PAYMENT LAWS

STATUTORY CITATION: La. Rev. Stat. §§ 23:631 - 23:641

GENERAL SUMMARY: Among other provisions, the state wage payment laws include minimum standards for the payment of final compensation and a prohibition on the assessment of fines against employees. These provisions apply to all occupational and industry groups, including agriculture.

SPECIFIC TERMS AND CONDITIONS

FINAL COMPENSATION — Upon the discharge or resignation of an employee, it is the duty of the employer to pay the worker's final wages on or before the next regular payday or no later than 15 days following the date of discharge or resignation, whichever occurs first. An employer who fails or refuses to comply with this requirement is liable to the worker for the lesser of (1) 90 days' wages at the worker's daily pay rate, or (2) full wages from the time the worker's demand for payment is made until the employer makes final payment, this in addition to the actual unpaid wages due.

ASSESSMENT OF FINES — Except where the employee willfully or negligently damages goods or the employer's property, it is illegal for an employer to assess any fine against an employee or deduct any sum as a fine from the employee's wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has not received final wages within 15 days after demand for payment may file suit to recover the unpaid wages, plus damages and attorney's fees. In the case of a laborer doing work on a plantation of a non-resident proprietor, a civil action may be filed against the proprietor for recovery of unpaid wages in the parish in which the labor was performed, as long as a copy of the petition or citation is served on the agent, overseer or manager of the plantation who is in the employ of the non-resident proprietor.

INCOME TAX LAW

STATUTORY CITATION: La. Rev. Stat. §§ 47:21 - 47:300.11

GENERAL SUMMARY: Subtitle II, Chapter 1 of Louisiana's revenue and taxation statutes levies a tax on the net income of residents, certain non-residents and other entities, including income derived from employment within the state. With some exceptions, every employer making any wage payments in Louisiana must deduct and withhold from each worker's wages an amount calculated to approximate the wage earner's state income tax liability with respect to such wages.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers and farmworkers are **exempt** from the state income tax withholding requirement.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Tax Administration and Compliance, Louisiana Department of Revenue, Baton Rouge, Louisiana 70802 (225-219-4059; toll-free 855-307-3893).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 771 - 786

GENERAL SUMMARY: Maine's child labor laws contain age and hour criteria restricting the employment of minors under age 18 in most occupations, and prohibit most employers from hiring minors under 16 without first obtaining from each such minor a work permit authorizing employment.

PROVISIONS APPLICABLE TO AGRICULTURE

The minimum age limitations, working-hour restrictions, and work permit requirements **do not apply** to work performed in the planting, cultivation or harvesting of field crops or other farm employment that does not involve direct contact with hazardous machinery or hazardous substances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 20-A, §§ 5001-A – 5004

GENERAL SUMMARY: With certain exceptions, persons who are 7 years of age or older, but who are under the age of 17, must attend a public day school (or obtain state-approved equivalent instruction) during the time the school is in regular session. All adults having a child of compulsory school age under their control must assure the child's attendance at school.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law generally applies to children in the affected age bracket without regard to their employment status or occupational classification, or the status or classification of their parents or guardians.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school boards, under local rules filed with the state education commissioner. The district courts have jurisdiction over compulsory attendance offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Maine Department of Education, Augusta, Maine 04333 (207-624-6620). The Department is responsible for guiding local school boards in adopting their respective compulsory attendance rules.

CIVIL RIGHTS

MAINE HUMAN RIGHTS ACT

STATUTORY CITATION: Me. Rev. Stat. Title 5, §§ 4551 - 4634

GENERAL SUMMARY: The Maine Human Rights Act contains fair employment provisions which generally guarantee each individual's opportunity to secure employment without discrimination because of race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, or national origin. The Act applies to virtually all employment in the state, other than services performed for nonprofit religious and fraternal organizations.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT DISCRIMINATION — Except where based on a bona fide occupational qualification, it is regarded as unlawful discrimination for an employer to refuse to hire or to otherwise discriminate against any job applicant because of the applicant's race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, national origin, or previous assertion of a workers' compensation claim or exercise of a right under the Workers' Compensation Act. Likewise, an employer may not discharge an employee or discriminate against an employee with respect to hire, tenure, promotion, transfer, compensation, privileges of employment, or any other matter directly or indirectly related to employment, on grounds of race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, or national origin. The use of an employment agency which the employer knows or has reason to believe discriminates against individuals on these grounds is also illegal.

Employment agencies and labor organizations are prohibited from engaging in similar acts of discrimination on these same grounds.

COMPLAINTS — Any person who has been subjected to unlawful employment discrimination may file a complaint with the state enforcement agency. To be considered timely, the complaint must be filed within 300 days after the alleged act took place. If a preliminary investigation of the matter finds reasonable grounds to believe unlawful discrimination has occurred, the state agency normally must take steps to try to eliminate the violation through conference, conciliation and persuasion. The agency may file a civil action in superior court if informal efforts do not result in a conciliation agreement signed by the parties to the complaint.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal to discriminate in any way against an individual because the person has opposed an act or practice that is unlawful under this law, or because the person filed a complaint, testified, or participated in an investigation, proceeding or hearing under the law. Likewise, an employer is prohibited from coercing, intimidating or threatening an employee for exercising the employee's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maine Human Rights Commission, Augusta, Maine 04333 (207-624-6290). The Commission is charged with enforcement of all provisions of the Human Rights Act, and in that role may hold hearings, subpoena witnesses and records, and take other appropriate measures to investigate and resolve reported or suspected illegal discrimination. The Commission is empowered to seek court-ordered money penalties and other relief for any violation of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If, within 180 days of filing a complaint with the Human Rights Commission, the Commission has not filed a civil action or entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter and take legal action against the alleged offender directly, using a private attorney or a public legal service provider. However, civil action must be commenced not more than 2 years after the discriminatory act occurred, and no monetary damages or attorney's fees may be awarded to the plaintiff unless the complaint is first filed with the state Human Rights Commission and the agency either dismisses the case or fails, within 90 days after a finding of reasonable grounds, to enter into a conciliation agreement.

WAGE PAYMENT LAWS (EQUAL PAY)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 628

GENERAL SUMMARY: Employers in Maine may not discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation at a rate less than the rate at which employees of the opposite sex are paid for comparable work, on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials paid pursuant to established seniority systems or merit increase systems, or differences in shift or time of day worked, which do not discriminate on the basis of sex are not within this prohibition.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies implicitly to agricultural employers, and protects agricultural workers, to the same extent as their counterparts outside agriculture.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900). When a worker reports an incident involving unequal pay based on sex, the law requires the Department to investigate the allegations and, if the charges are confirmed, to bring suit against the employer on the worker's behalf to collect or supervise the payment of the judgment. Violators of the equal pay provision are also subject to a forfeiture of up to \$500 for each violation, payment of which the Department may enforce through the same litigation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker who is affected by wage-related sex discrimination may elect to take civil action on his or her own, through private legal counsel or a public legal service provider. A judgment in favor of the worker may include, in addition to the unpaid wages due, a reasonable rate of interest, twice the amount of unpaid wages as liquidated damages, court costs, and attorney's fees.

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 831 – 840

GENERAL SUMMARY: It is illegal for virtually any public or private employer in Maine to discharge, threaten or otherwise discriminate against an employee in the terms and conditions of employment, because the employee reports to the employer, or to a public officer or agency, what the employee has reasonable cause to believe is a condition or practice that would put the health or safety of the employee or anyone else at risk. Employers are also prohibited from taking discriminatory employment action against a worker for having been requested to take part in an investigation, hearing or inquiry by a public agency or court of law.

Before a worker's claim of unlawful discrimination under the whistleblower law can be investigated and enforced, the worker is generally required to first bring the alleged violation, condition or practice to the attention of a person having supervisory authority in the workplace and allow the employer a reasonable opportunity to correct the violation, condition or practice.

PROVISIONS APPLICABLE TO AGRICULTURE: The Whistleblowers' Protection Act applies implicitly to agricultural employers, and protects agricultural workers, to the same extent as their counterparts outside agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maine Human Rights Commission, Augusta, Maine 04333 (207-624-6290). A worker alleging a violation of his or her rights under these provisions, and who has complied with the requirement to notify a supervisor in an attempt to resolve the issue informally, may file a complaint with the Commission for action under the Maine Human Rights Act, summarized above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HEALTH AND SAFETY

■ FARM WORKER OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 580 - 581

RELATED REGULATIONS: 01 001 Me. Code R. Ch. 365

GENERAL SUMMARY: Chapter 6, Subchapter 2 of the state labor laws authorizes the state agriculture commissioner to adopt and enforce occupational safety and health standards that will (1) protect workers employed in agricultural labor from hazards to their safety and health, and (2) maintain working conditions reasonably free from such safety and health hazards.

SPECIFIC TERMS AND CONDITIONS

Using the statutory authority referred to above, the agriculture commissioner has adopted field sanitation standards, summarized below, which are applicable only to agricultural establishments where more than 10 workers are employed on any given day in hand-labor operations in blueberry fields.

DRINKING WATER — Employers subject to the field sanitation regulations must provide suitably cool, sanitary drinking water to their workers in the field, at locations reasonably accessible to all the workers. There must be no less than one gallon of water for every worker on the job each day. Water must be dispensed from a fountain or in single-use disposable cups.

TOILET AND HANDWASHING FACILITIES — Employers must provide at least one toilet and one handwashing facility for every 30 workers, or fraction thereof. These facilities, or transportation to such facilities, must be located within 1/4 mile of each worker's place of work in the field. Employers are required to inform the workers regarding the location of the facilities, as well as the availability of any transportation to and from that location. It is the employer's responsibility to furnish toilet paper, soap and single-use towels (or allowable equivalent supplies).

Workers must be permitted reasonable opportunities during the workday to use the sanitation facilities described above. It is illegal for an employer to charge a worker any fee for the water, equipment or transportation required under these regulations, or to deduct any amount from a worker's wages or hours in connection with the use of required sanitation facilities.

The toilet and handwashing facility requirements **do not apply** to workers engaged in hand-labor operations for 3 hours or less on any given day.

SPECIAL NOTES OR ADVISORIES

FLEXIBILITY OF RULES — Agency rules permit employers to provide potable water, toilets, or handwashing facilities in lesser quantities or in differing locations, provided that comparable protection is achieved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Quality Assurance and Regulations, Bureau of Agriculture, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-3841).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

AGRICULTURAL LABOR HOUSING STANDARDS LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 585 – 589

GENERAL SUMMARY: Chapter 6, Subchapter 3 of the state labor statutes requires the state labor department to adopt rules protecting the health, safety and welfare of agricultural workers and their families who occupy housing provided or controlled by their farm employers. Such rules are to apply only to agricultural employers who provide housing to more than 5 employees, and apply only to housing not already subject to standards promulgated under the federal Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S. — Housing — Farm Labor Housing Standards).

SPECIFIC TERMS AND CONDITIONS: The state labor department has not published any explicit rules using the above-mentioned authority, but the law specifies that the standards applicable to employer-provided farmworker housing in Maine must be identical to the Migrant and Seasonal Agricultural Worker Protection Act housing habitability regulations (U.S. — Housing — Farm Labor Housing Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900). The Bureau has authority to inspect housing facilities subject to this law, and may enter any such housing at any reasonable time to determine compliance with the applicable rules. However, if the facility is occupied, the Bureau must have permission from one or more of the occupants or have a valid search warrant. Unoccupied facilities may be entered and inspected only with permission from the owner or with a valid warrant. Violations of the housing standards are punishable by a civil fine of up to \$1,000 per violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative complaint, a worker aggrieved by a violation of these provisions may take legal action against the owner of the housing facility directly, using a private attorney or a public legal service provider.

INSURANCE AND COMPENSATION

■ EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 1041 – 1268

RELATED REGULATIONS: 12 172 Me. Code R. Ch. 6

GENERAL SUMMARY: The Employment Security Law establishes a state unemployment compensation fund, financed from unemployment insurance taxes collected from most employers in the state, and authorizes the payment of cash benefits to temporarily unemployed workers who have sufficient wage credits from recent employment with covered employers and meet other eligibility requirements. In general, any employer who (1) paid at least \$1,500 in wages during any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different calendar weeks this year or last, must pay UI taxes to the fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments in Maine are required to pay contributions to the state unemployment compensation fund if they (1) paid wages of \$20,000 or more for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year. In general, unemployment insurance taxes are payable with respect to the first \$12,000 of wages paid to each employee during the calendar year, at a tax rate determined annually by the state administering agency in accordance with the employer's claims history.

ELIGIBILITY FOR BENEFITS — As a rule, an unemployed individual is eligible to receive UI benefits in a particular week only if the worker (1) has filed a claim for benefits, (2) has registered for work and continued to report to the state employment office, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim, received total wages equal to or exceeding 6 times the statewide annual average weekly wage for insured work, and received wages equal to or exceeding 2 times the statewide annual average weekly wage in each of 2 different quarters of the four-quarter base period.

AMOUNT OF BENEFITS — Each eligible claimant who is totally unemployed in a particular week is entitled to receive benefits that week equal to 1/22 of the insured wages earned during the two quarters of the worker's four-quarter base period in which such wages were highest. The weekly benefit amount may not exceed 52 percent of the statewide annual average weekly wage. For any week of partial unemployment, an eligible claimant will normally receive a sum equal to the weekly benefit amount, minus that part of the week's earnings which is in excess of \$25.

DEPENDENTS' ALLOWANCE — In addition to the claimant's basic benefits, an allowance of \$10 for each unemancipated child under the age of 18 is generally payable also. In no case, however, may dependents' allowances exceed 50 percent of the individual's weekly benefit amount.

SEASONAL WORKER PROVISIONS — Jobless workers who earned all of their wage credits during the four-quarter base period from work in an industry designated by the state agency as "seasonal" (including many agricultural operations) are generally eligible for benefits only to the extent that they are unemployed during the seasonal period or periods when that industry is normally in operation, as determined by the state agency. On the other hand, benefits to unemployed workers with both seasonal and non-seasonal earnings are not restricted to a particular time of year, but outside the normal period of operation of the seasonal industry, eligibility and the amount of benefits are determined solely on the basis of the wage credits earned from non-seasonal work.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Unemployment Compensation, Maine Department of Labor, Augusta, Maine 04333 (toll-free 800-593-7660). This agency is responsible for administering the state unemployment insurance program, including tax liability and collection matters, the claims process, and the payment of benefits from the unemployment compensation fund. Application for benefits may be made online at www.maine.gov/labor/unemployment/, or by phone at 800-593-7660.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ MAINE WORKERS' COMPENSATION ACT OF 1992

STATUTORY CITATION: Me. Rev. Stat. Title 39-A, §§ 101 – 409

GENERAL SUMMARY: The Workers' Compensation Act entitles most employees in the state to be paid compensation and furnished medical and related services by their employer in the event such employees are injured on the job. An employer may satisfy the obligation to pay compensation and furnish medical and related services by (1) securing a prescribed workers' compensation insurance policy, (2) providing the state administering agency with satisfactory proof of the employer's solvency and financial ability to pay compensation and cover medical and related costs as a self-insurer, or (3) applying to the state agency for approval to participate in a group self-insurance plan.

Any employer who has not complied with this requirement is not entitled, in a civil suit filed against the employer for job-related personal injury or death, to claim as a defense that the injury or death resulted from the worker's own negligence, that the injury or death was caused by the negligence of a co-worker, or that the worker had assumed the risk of injury or death. On the other hand, an employer who has secured the payment of required compensation is exempt from civil actions for damages involving personal injury or death on the job, and workers or their survivors in such cases are generally able to receive regular cash benefits and payment of medical expenses without having to resort to litigation.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EMPLOYMENT IN GENERAL — Agricultural employers who have employed more than 6 agricultural laborers for a combined total of 240 hours or more in any one week during the 52 weeks immediately preceding a job-related injury are subject to the Workers' Compensation Act, and such workers are entitled to workers' compensation benefits in the event of occupational injury.

Employers of 6 or fewer regular agricultural workers — and those with more than 6 who do not meet the 240-hour threshold — must also provide coverage, unless they maintain an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural laborers employed, and medical payment coverage of not less than \$5,000.

SEASONAL OR CASUAL EMPLOYMENT — Employers of workers engaged in agriculture as seasonal or casual laborers must secure workers' compensation coverage for each such worker, unless they maintain an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

SPECIAL NOTES OR ADVISORIES

EXEMPT-STATUS BURDEN OF PROOF — The burden of proof to establish exempt status as an agricultural employer with liability insurance coverage in lieu of workers' compensation, as described above, is on the employer claiming the exemption. Nevertheless, whenever an agricultural employer files a motion with the Workers' Compensation Board claiming exemption, any worker involved may file a reply within 5 days, together with affidavits, records and other evidence supporting the claim that the employer does not fall within an agricultural exemption. If the Board rules in favor of the employer, the worker may appeal the decision to the Board's appellate division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087). The Board is charged with ensuring that the state workers' compensation system operates efficiently and with maximum benefit to both employers and employees. The Board must monitor individual compensation cases in order that injured employees and their dependents receive the full amount of compensation to which they are entitled under the Act. Any worker injured in a job-related accident should notify the employer as soon after the injury as possible, but in any event no more than 30 days after the date of injury. If the employer fails to provide compensation, or if a dispute should arise over the employer's liability to make or continue making compensation payments, a petition may be filed with the Board. In general, any worker's claim for compensation under the Act will be barred unless a petition is filed within 2 years after the date of injury, or the date the employer files a required first report of injury, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 39-A, §§ 601 – 615

GENERAL SUMMARY: The Occupational Disease Law clarifies that a worker's death or incapacity to work which arises out of and in the course of employment and results from an occupational disease must be treated as a personal injury within the meaning of the Workers' Compensation Act, and all provisions of the Workers' Compensation Act apply to such occupational diseases.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EMPLOYMENT IN GENERAL — Full-time or regular farmworkers in Maine must be protected by workers' compensation insurance or equivalent compensation coverage in the event of disablement due to occupational disease if they are employed by an employer who has employed more than 6 agricultural laborers for a combined total of 240 hours or more in any one week during the 52 weeks immediately preceding such disablement. Full-time or regular workers employed by any other agricultural employer must also be covered, unless the employer maintains an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural laborers employed, and medical payment coverage of not less than \$5,000.

SEASONAL OR CASUAL EMPLOYMENT — Seasonal or casual agricultural workers must be covered by a workers' compensation insurance policy or equivalent compensation coverage which pays benefits for occupational disease disablement, unless the employer maintains an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

SPECIAL NOTES OR ADVISORIES

EXEMPT-STATUS BURDEN OF PROOF — The burden of proof to establish exempt status as an agricultural employer with liability insurance coverage in lieu of workers' compensation, as described above, is on the employer claiming the exemption. Nevertheless, whenever an agricultural employer files a motion with the Workers' Compensation Board claiming exemption, any worker involved may file a reply within 5 days, together with affidavits, records and other evidence supporting the claim that the employer does not fall within an agricultural exemption. If the Board rules in favor of the employer, the worker may appeal the decision to the Board's appellate division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087). A worker who becomes disabled by an occupational disease, or the surviving dependents of a worker whose death is caused by such a disease, should notify the worker's most recent employer as soon after the disablement or death as possible. If the employer fails to provide compensation, or if a dispute over the employer's liability to make or continue making compensation payments should arise, the worker or the worker's dependents may file a petition with the Board. Any such claim may generally be barred unless it is filed within 2 years after onset of the disease, or the date the employer files a required first report of injury, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (FARM LABOR CONTRACTOR REGISTRATION)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 643-B

GENERAL SUMMARY: Chapter 7, Subchapter 2-A of the state labor statutes contains a provision applicable to farm labor contractors in Maine.

SPECIFIC TERMS AND CONDITIONS: Each farm labor contractor employing migrant and seasonal farmworkers is required to file a copy of its federal registration under the Migrant and Seasonal Agricultural Worker Protection Act to the Maine labor department. The filing must include in-state contact information for the contractor or the contractor's representative.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

BOARD OF PESTICIDES CONTROL LAW

STATUTORY CITATION: Me. Rev. Stat. Title 22, §§ 1471-A - 1471-X

RELATED REGULATIONS: 01 026 Me. Code R. Chs. 10 - 90

GENERAL SUMMARY: Chapter 258-A of the state health and welfare statutes (1) governs the sale and use of chemical insecticides, fungicides, herbicides and other chemical pesticides, and (2) establishes a state board to develop more specific pesticide standards and regulations and to enforce compliance.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — In general, no commercial applicator or spray contracting firm may use or supervise the use of any pesticide in Maine without prior certification by the state. Similarly, private applicators are forbidden from using or supervising the use of any limited- or restricted-use pesticide without first being certified by the state to do so, unless working under the direct supervision of a certified applicator. Certification for each category of pesticide application activity requires payment of a prescribed fee and demonstration of an appropriate level of knowledge regarding pesticide use, related hazards and necessary precautions. In addition, commercial applicators, spray contracting firms and certain private applicators must provide proof of financial responsibility when applying for or renewing certification.

EMPLOYEE SAFETY — Certified pesticide applicators (including private agricultural producers) must acquaint their employees and those working under their direction with the hazards involved in handling the products used and must instruct them in the proper steps to be taken to avoid those hazards. Applicators must provide their employees with any necessary safety equipment prescribed on the pesticide label.

PESTICIDE STORAGE AND DISPOSAL — Whether in sealed or open containers, unused pesticides must be kept in a secure enclosure and maintained so as to prevent unauthorized use or mishandling.

APPLICATION WITH POWERED EQUIPMENT — In order to minimize drift of pesticides onto non-targeted property, the state pesticide regulations contain detailed standards for the application of pesticides by motorized equipment. Before and during pesticide spray activities, applicators must monitor the equipment used, weather conditions, the boundaries of the area to be treated, surrounding property, and other factors. The occupants of certain sensitive areas (including housing) within 500 feet of a pesticide target area may request prior notification of applications involving power equipment. Under no circumstances may pesticides be applied when wind speed in the area exceeds 15 miles per hour.

RECORDKEEPING — Commercial applicators and spray contracting firms must maintain records indicating, in part, the type and amount of each pesticide used and the area of use. Such records must be safeguarded for at least 2 years.

PROHIBITED ACTS — The state enforcement agency may suspend, revoke or refuse to renew certification if the applicator has, among other acts, used or supervised the use of pesticides applied in a careless, negligent or faulty manner, or in a manner potentially harmful to the environment or to the public health, safety or welfare.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731). The Board is responsible for certification of pesticide applicators in the state and for monitoring their professional activities. For this purpose, representatives of the Board are authorized to enter any public or private premises at reasonable times to inspect application equipment, to inspect pesticide storage and disposal areas, to investigate complaints of injury or damage from pesticides, and to sample pesticides and pesticide residues on crops, soil, water or elsewhere in the environment. Anyone who violates any of the statutory provisions or the regulations issued thereunder is subject to a fine of up to \$500 for the first offense and a fine of no less than \$500 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

BOARD OF PESTICIDES CONTROL LAW (AERIAL APPLICATIONS)

STATUTORY CITATION: Me. Rev. Stat. Title 22, §§ 1471-A - 1471-X

RELATED REGULATIONS: 01 026 Me. Code R. Chs. 10 – 90

GENERAL SUMMARY: Under rulemaking authority granted by this statute, the Board of Pesticides Control has established standards governing aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

IDENTIFICATION OF TARGET SITE — The farm operator or other person contracting for an aerial pesticide application must ensure that the target area is positively identified beforehand, using GPS coordinates, effective site markings visible to the applicator, or some other method approved by the state agency.

SITE PLANS — Before any aerial application within 1,000 feet of a sensitive area that is likely to be occupied, the farm operator or other person contracting for the application must provide the applicator with a site plan that includes a map — drawn to scale — delineating the area's boundaries and property lines and showing significant landmarks, flight hazards and the sensitive areas involved.

APPLICATION CHECKLIST — Before conducting an aerial application within 1,000 feet of a sensitive area, the applicator is required to complete a state-approved pre-application checklist for each target site. Among other things, the checklist must include (1) the date and time, a description of the target site, and the name of the applicator, (2) confirmation that any required notifications have been carried out, (3) wind speed and direction, and (4) confirmation that there are no humans visible in or near the target area.

WIND SPEED LIMITS — Unless otherwise specified on the pesticide product label, an applicator may not conduct an aerial application within 1,000 feet of a sensitive area likely to be occupied unless the wind speed is between 2 and 10 miles per hour.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731). The Board is responsible for certification of pesticide applicators in the state and for monitoring their professional activities. For this purpose, representatives of the Board are authorized to enter any public or private premises at reasonable times to inspect application equipment, to inspect pesticide storage and disposal areas, to investigate complaints of injury or damage from pesticides, and to sample pesticides and pesticide residues on crops, soil, water or elsewhere in the environment. Anyone who violates any of the statutory provisions or the regulations issued thereunder is subject to a fine of up to \$500 for the first offense and a fine of no less than \$500 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MAINE AERONAUTICS ACT (AGRICULTURAL AVIATION)

STATUTORY CITATION: Me. Rev. Stat. Title 6, § 151

GENERAL SUMMARY: Chapter 8 of the Maine Aeronautics Act includes a provision relevant to the use of aircraft in agricultural operations.

SPECIFIC TERMS AND CONDITIONS

Anyone applying pesticides from the air must adhere to federal regulations governing certification of pilots and aircraft and agricultural aircraft operations (see entry, U.S. — Pesticides & Agricultural Chemicals — Aerial Application Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Aeronautics, Maine Department of Transportation, Augusta, Maine 04330 (207-624-3000). In all parts of the state, Division inspectors have the same authority to investigate reported or suspected violations of the agricultural aviation regulations, and to make arrests for any such violation, as police and other local law enforcement officers have in their respective jurisdictions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

TRANSPORTATION

EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (TRANSPORTATION OF WORKERS)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 643

GENERAL SUMMARY: Chapter 7, Subchapter 2-A of the state labor statutes contains a provision regulating the transportation of farm and forestry workers.

SPECIFIC TERMS AND CONDITIONS: Farm labor contractors who are required to register with the U.S. Department of Labor must provide the migrant and seasonal farmworkers they employ with safe transportation between the workers' lodging and their worksites each day, at no cost to the workers. Among the statutory safety standards that contractors must observe are these:

COMPLIANCE WITH FEDERAL STANDARDS — Each vehicle must meet the vehicle safety standards prescribed by the U.S. Department of Labor's regulations under the Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S. — Transportation — Farmworker Transportation Safety).

OCCUPANCY — The number of occupants in any vehicle used to transport workers may not exceed the manufacturer's design specifications, but in no case may the number exceed 12 at any time. In the case of a 15-passenger van, the seating immediately behind the rear axle must be removed, limiting maximum occupancy to 11 passengers.

EQUIPMENT — Every vehicle used for worker transportation must be equipped with a working seat belt for each worker and a functional first aid kit that meets federal OSHA standards. There must not be any apparatus, attachment or cargo on the vehicle that interferes with operation of the rear door, the side doors or windows. Attachments on the roof for carrying gear are not permitted.

DRIVERS — Anyone driving a vehicle used to transport workers must meet the driver qualifications and follow the MSPA driving standards referenced above. Except in an emergency, a worker who performs agricultural labor is not allowed to operate a worker transportation vehicle for more than 2 hours a day.

INSURANCE — A worker transportation vehicle must be insured for at least the same minimum liability level as required by the state.

EMERGENCY PREPAREDNESS — Each vehicle must have communication equipment capable of providing the most immediate access to emergency medical services, and there must be a driver available at or near the worksite at all times during the workday. For each job site, an emergency action plan, written in language understandable by the worker crew, must be maintained, and it must include information on how to transport injured workers to the nearest emergency facility and how to direct emergency workers to the location of an injured worker who cannot be moved.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900). The Bureau may inspect vehicles subject to these provisions and has authority to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Upon the written request of the Bureau, the Maine Department of Transportation and Maine Department of Public Safety are required to provide technical services in connection with vehicle inspections and enforcement of these provisions.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 661 - 672

GENERAL SUMMARY: With some exceptions, the state minimum wage law declares it unlawful for employers in Maine to employ any worker at a wage rate less than the state minimum wage. Under a ballot measure approved by voters in November 2016, the minimum wage is set to increase in four steps, as follows:

Effective January 1, 2017: \$9.00 per hour

Effective January 1, 2018: \$10.00 per hour

Effective January 1, 2019: \$11.00 per hour

Effective January 1, 2020: \$12.00 per hour

The existing rate will be adjusted each year thereafter, to reflect increases in the cost of living. The minimum wage statute provides further that whenever the federal minimum wage is increased above the existing state minimum, the state rate will automatically rise to the same amount, but in no case more than \$1.00 per hour above the statutory state minimum in effect at that time.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law **does not apply** to any individual employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 664(3)

GENERAL SUMMARY: In addition to establishing an hourly pay floor for the state's workforce, the state minimum wage law makes it unlawful for most employers in Maine to require covered employees to work more than 40 hours in any one week, unless they receive 1:/2 times the regular hourly pay rate for all work over 40 hours.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law, and hence the overtime pay requirement, does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 621-A - 636

GENERAL SUMMARY: The state wage payment laws encompass procedural standards related to time of payment, payroll records, termination of employment, and certain unfair contracts.

PROVISIONS APPLICABLE TO AGRICULTURE

TIMELY AND FULL PAYMENT — At regular intervals not to exceed 16 days, every employer must pay in full all wages earned by each employee. Each payment must include all wages earned to within 8 days of the payment date.

RECORDS — Every employer must keep a true record of the date and amount of each wage payment to each employee, as well as a daily record of the time worked by each hourly employee.

TERMINATION OF EMPLOYMENT — A worker leaving his or her employment must be paid in full by the next regular payday, or not more than 2 weeks after the day on which demand for final payment is made of the employer, whichever is earlier. The employer may deduct any loan or advance against future wages only if such loan or advance is evidenced by a written statement signed by the worker.

UNFAIR AGREEMENTS — The ban on work agreements which permit a person to work without pay, or require the worker to return part of his or her wages to the employer (for any reason other than payment of a loan made to the worker, merchandise purchased from the employer, rent or utilities for employer-owned housing, or certain employee benefits), *does not apply* to work performed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333. Farmworkers who have not received pay in accordance with the provisions summarized above may file a wage claim with the Department. An employer found in violation is liable for the amount of unpaid wages, and any court judgment in favor of a worker or workers may include a reasonable rate of interest, an additional amount equal to twice the unpaid wages as liquidated damages, court costs, and attorney's fees. The offending employer is also subject to an administrative fine of up to \$500 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages by filing a civil suit against the employer directly, using a private attorney or public legal service provider.

MAINE INCOME TAX LAW

STATUTORY CITATION: Me. Rev. Stat. Title 36, §§ 5101 - 5403

GENERAL SUMMARY: The Maine Income Tax Law imposes a tax on certain income received by residents of the state, and on taxable income of non-residents which is derived from sources within the state, including wages from employment. The law requires every employer who pays to any worker taxable wages subject to federal income tax withholding, to deduct and withhold from such wages an amount estimated to equal the worker's state income tax liability with respect to those earnings.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminates before the close of the current calendar year — the employer is required to provide the employee with a written statement showing the amount of wages paid and the amount of state income tax withheld during calendar year being reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Maine must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Withholding Division, Maine Revenue Services, Department of Administrative and Financial Services, Augusta, Maine 04332 (207-626-8475).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-201 – 3-216

GENERAL SUMMARY: With some exceptions, the state child labor laws (1) forbid the employment of any minor under the age of 14, (2) restrict the occupations, maximum hours and time of day in which persons under 18 may be employed, (3) define certain hazardous occupations closed to minors under the age of 18, and (4) prohibit the employment of anyone under 18 years of age unless the employer has obtained a valid work permit for the minor.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for the general condition that individuals under 18 not be employed during prescribed local school hours or in hazardous occupations, the restrictions and requirements of Maryland's child labor laws **do not apply** to farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Md. Code, Educ. § 7-301

GENERAL SUMMARY: Each child who resides in Maryland, and who is at least 5 years old but has not yet reached age 17 (age 18 beginning July 1, 2017), must regularly attend a public school during the entire school year, unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. Each person who has under his or her control a child of compulsory school attendance age must see that the child attends school or receives equivalent instruction as required.

Among other exceptions, a child under the age of 17 who provides financial support to his or her family, as documented by a local social services department, may be exempt from the compulsory attendance requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to children in the affected age range, without regard to the occupational classification of their parents or guardians.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance law is enforced through the courts, by county boards of education, county school superintendents, and local law enforcement agencies. The law prescribes a fine of up to \$50 per day of unlawful absence, imprisonment for up to 10 days, or both fine and imprisonment, for any person convicted on a first offense of failing to assure the required school attendance of a child.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ MARYLAND WORKERS' COMPENSATION ACT (ILLEGALLY EMPLOYED MINORS)

STATUTORY CITATION: Md. Code, Lab. & Empl. § 9-606

GENERAL SUMMARY: At the discretion of the state agency responsible for administration of the Workers' Compensation Act, all compensation and death benefits payable under the Act may be doubled in the event of the job-related injury of a minor who was illegally employed under the state child labor laws at the time of the injury. The employer alone is liable for the increased amount of compensation or benefits, and any insurance policy provision purporting to relieve an employer of the additional liability is void.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as Maryland's child labor laws contain only two limitations on the employment of minors in farmwork, the provision requiring employers to pay up to two times the normal amount of workers' compensation benefits for on-the-job injuries involving illegally employed youth would apply to farm operators and other farming establishments only if, at the time of the injury, the child was working during school hours or in an activity deemed hazardous.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Employment Standards Service, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for investigating possible violations of the state child labor laws, which may include employment in occupations regarded as hazardous to minors.

CIVIL RIGHTS

• HUMAN RELATIONS LAW

STATUTORY CITATION: Md. Code, State Gov. §§ 20-101 - 20-1203

GENERAL SUMMARY: Title 20 of the State Government Code outlaws, among other practices, discrimination in employment and establishes a state civil rights commission to enforce compliance. The employment discrimination provisions generally apply to all employers in the state — agricultural and non-agricultural — who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Subject employers are prohibited from engaging in any of the following unlawful employment practices, among others:

- (1) Refusing to hire a job applicant, discharging an employee, or otherwise discriminating against any individual with respect to compensation or the terms, conditions or privileges of employment, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability unrelated in nature or extent so as to reasonably preclude performance of the job.
- (2) Limiting, segregating or classifying employees or job applicants, on the same grounds, in any way which would tend to deprive them of employment opportunities or otherwise adversely affect their status as employees.
- (3) Publishing any employment notice or advertisement indicating any preference, limitation, specification or discrimination based on race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability (except where religion, sex, age, national origin, marital status, or disability is a bona fide occupational qualification for employment).

Comparable discriminatory acts by employment agencies and labor organizations are also illegal.

COMPLAINTS — Anyone claiming to be aggrieved by an act of employment discrimination may file a complaint with the state enforcement agency, within 6 months from the date of occurrence; the complaint must be in writing and signed by the complainant. The state agency staff must promptly investigate the facts of the case, and when there is probable cause to believe a discriminatory act has been committed, the staff is required to attempt an informal resolution of the violation through conciliation.

If the agency finds probable cause and conciliation efforts fail, either party may elect to have the case heard by an administrative law judge or in civil court. If the complaint is sustained, the state agency or court may issue an order requiring the respondent to cease and desist from the discriminatory practice and to take affirmative corrective action, which may include reinstatement or hiring, with or without back pay. Victims of employment discrimination are also eligible for monetary damages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maryland Commission on Civil Rights, Baltimore, Maryland 21202 (410-767-8600; toll-free 800-637-6247). In its enforcement role under the human relations law, the Commission may examine employers' personnel records, question employees, subpoena documents and witnesses, and take sworn testimony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If a worker has filed a timely administrative charge or complaint alleging an unlawful employment practice and at least 180 days have elapsed since the complaint was filed, the worker may take action against the employer involved in civil court, using a private attorney or public legal service provider. Any such civil action, however, must be filed no later than 2 years after the unlawful employment practice occurred.

EQUAL PAY FOR EQUAL WORK LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-301 – 3-309

GENERAL SUMMARY: Title 3, Subtitle 3 of the state labor statutes prohibits wage and salary discrimination on the basis of sex in all workplaces in Maryland.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — No employer may discriminate in any way by paying wages or salaries in any occupation to employees of one sex at a rate less than that paid employees of the opposite sex for work of comparable character or work in the same operation or business in the same establishment. This does not, however, preclude pay differentials based on (1) seniority or merit, provided such systems do not discriminate on the basis of sex, (2) jobs requiring different skill or ability, or (3) work on different shifts.

RECORDKEEPING — Every employer must keep records of the wages, job classifications, and other terms and conditions of employment for each employee.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency must generally attempt to eliminate discriminatory pay practices informally whenever an investigation of a reported or suspected violation confirms such practices. At any time within 3 years after the violation occurs, the Division is authorized to take legal action on behalf of and at the written request of any worker to collect a valid claim for unpaid wages resulting from illegal wage discrimination under these provisions. An employer who violates the equal pay law is liable to the worker in the amount of the unpaid wages, plus an equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker may elect to recover amounts unpaid due to illegal wage discrimination by filing suit against the offending employer directly, using legal counsel of the worker's own choice. However, no action to recover unpaid wages and damages may be brought unless commenced within 3 years after occurrence of the discriminatory act which is the basis of the complaint.

HEALTH AND SAFETY

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 - 5-1103

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act imposes a general duty on virtually every non-federal employer in the state to furnish employees with a safe and healthful job and workplace, free from recognized hazards which could cause death or serious injury to the workers. The Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor commissioner has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Maryland's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and apply to all agricultural employers in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). In enforcing compliance with these provisions, representatives of the Division have authority to enter any place of employment in the state, at reasonable times, to inspect the workplace and associated equipment and materials, and to question the employer and employees. If, upon inspection or investigation, the Division believes an employer has violated the general duty created by the Act, or any standard or regulation adopted under the Act's authority, the Division must promptly issue a citation to the employer, fixing a reasonable time for correction of the violation. Failure to respond in good faith to a citation may lead to a formal order against the employer, enforceable in court. Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division, and violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 - 5-1103

RELATED REGULATIONS: Md. Code Regs. 09.12.36

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor commissioner has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Maryland's field sanitation standards are very similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation), but, among other differences, the Maryland regulations permit the normal ratio of one toilet facility for every 20 workers to be reduced to one for every 30 when toilets are serviced frequently.

Also, while federal standards do not require employers to provide drinking water, toilets or handwashing facilities where fewer than 11 workers are employed on any given day, all farm employers in Maryland must furnish drinking water to their workers, regardless of the number of employees; the toilet and handwashing requirements, however, apply only to operations with 11 or more workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 – 5-1103

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor commissioner has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Maryland's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

ATTORNEY GENERAL OPINION NO. 82-024

STATUTORY CITATION: 67 Opp. Atty. Gen. Md. 64

GENERAL SUMMARY: Opinion No. 82-024, issued by the state attorney general in July 1982, clarifies the right of migrant workers in Maryland to receive visitors in their living quarters, subject only to reasonable rules necessary to protect business and security interests.

SPECIFIC TERMS AND CONDITIONS: Agricultural producers in Maryland may not exclude from migrant labor camps under their control or ownership representatives of public or private agencies which provide services to migrant workers, nor may they bar anyone else who is invited onto the premises by a resident. If a worker informs the camp owner or operator that he or she is expecting a visitor, the owner or operator may not inquire as to the purpose of the visit; in any other case, the owner or operator may require visitors to identify themselves and state the general purpose of their visit. Representatives of government agencies or private farmworker service providers may enter a camp, seek out workers, and remain in the camp for as long as any resident is utilizing their services, without the presence of the camp owner or operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — The right of access and visitation at migrant labor housing facilities is enforceable through the courts. Any worker who is denied communication with anyone at his or her place of residence in Maryland should consult with a private attorney or public legal service provider.

■ FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 – 7-507

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, including the provision of worker housing facilities. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS: Prior to entry into Maryland with migrant agricultural workers for purposes of employment, or before recruiting migrant workers within the state, every farm labor contractor must disclose in writing the terms and conditions under which housing (if any) is to be provided to the workers, and the costs to be charged for its use. Whenever a contractor furnishes housing for migrant agricultural workers, either by agreement with an agricultural employer or agricultural association or otherwise, the contractor must ensure that the terms and conditions of occupancy are posted in a conspicuous place throughout the duration of the stay.

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for issuing certificates of registration to farm labor contractors who meet the prescribed registration requirements, and for enforcing compliance with the duties imposed by the registration law, including the housing-related provisions. Failure by a contractor to observe the conditions summarized above is grounds for suspension, revocation or refusal to renew the contractor's registration certificate, as well as assessment of civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

MARYLAND UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 8-101 – 8-1608

GENERAL SUMMARY: The Unemployment Insurance Law authorizes the payment of temporary cash benefits to jobless workers in Maryland who have recent earnings from covered employment and meet other eligibility tests, requires most employers in the state to pay unemployment insurance contributions in proportion to the amount of wages they pay, and establishes a state unemployment insurance fund into which UI contributions are deposited and from which UI benefits are paid. With some exceptions, every employer who employs at least one worker for any part of a day must pay taxes to the UI fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every Maryland farm operator or other agricultural establishment that (1) during any calendar quarter of the current or preceding calendar year pays cash remuneration of \$20,000 or more for agricultural labor, or (2) for any portion of a day in each of 20 different calendar weeks during the current or preceding calendar year employs at least 10 workers in agricultural labor, is required to pay contributions into the state unemployment insurance fund. Generally only the first \$8,500 in wages paid to each individual worker during the calendar year is utilized in the computation of the employer's contributions, which are figured using a tax rate assigned annually by the state administering agency on the basis of the employer's UI claims experience, among other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed individual is, in general, eligible to receive UI benefits only if the state agency finds that the worker (1) has registered for work and continued to report to the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned the minimum qualifying wages from insured work specified in the law and earned at least \$1,176 in the one quarter of the four-quarter base period in which total wages were highest.

AMOUNT OF BENEFITS — An eligible worker is entitled to the weekly benefit amount specified in the statutory schedule of benefits, according to the worker's high-quarter earnings in the four-quarter base period. The weekly benefit amount currently may range from \$50 to \$430. The net UI benefit payment for a particular week is generally equal to the worker's weekly benefit amount, plus a dependents' allowance of \$8 each for up to 5 of the claimant's children under 16 years of age, minus any wages received by the claimant that week in excess of \$50.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Unemployment Insurance, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21202 (410-767-2483). The Department administers all aspects of the state unemployment insurance system, including determinations of employer liability for payment of UI contributions, the collection of contributions from liable employers, the processing of UI claims, the adjudication of employer and claimant appeals, and the payment of benefits. Applications for unemployment compensation may be filed online at https://secure-2.dllr.state.md.us/NetClaims/Welcome.aspx, or by phone at 877-293-4125 (toll-free).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ MARYLAND WORKERS' COMPENSATION ACT

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 9-101 – 9-1201

GENERAL SUMMARY: The Workers' Compensation Act requires most employers who have one or more employees in Maryland to pay or provide monetary compensation for the job-related disability or death of an employee, without regard to fault. Such compensation encompasses, among related benefits, regular cash payments in lieu of lost wages, payment of medical and medically related expenses, and funeral costs.

An employer subject to the Act must meet this obligation by (1) maintaining insurance with an authorized insurer, (2) furnishing the state with satisfactory proof of the employer's financial ability to pay compensation as a self-insurer, or (3) participating in an approved self-insurance group plan. If an employer fails to exercise one of these three options, an injured employee or a legal representative may elect to claim compensation under the Act anyway, or may file a civil action in the courts for damages on account of such injury. In any such action, the employer may not plead as a defense that the injury was caused by the negligence of a fellow worker, that the worker had assumed the risk of employment, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that have 3 or more full-time employees, or have a yearly payroll for full-time employees amounting to at least \$15,000, are subject to the Workers' Compensation Act. In general, a farmworker who receives pay from such a farm employer is entitled to workers' compensation in the event of a job-related accident, or disablement due to an occupational disease, which occurs while the worker is so employed. The Act does not, however, cover farmworkers (other than those operating machinery or equipment) who are employed within 25 miles of their permanent place of residence and for only 13 weeks or less during the year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge an employee because the employee has filed a workers' compensation claim. Violation of the ban on retaliation may result in criminal prosecution and, upon conviction, a fine, imprisonment, or both.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297). The Commission is responsible for assuring employer compliance with the obligation to secure required compensation. Notice of injury must generally be given to the employer within 10 days after the accident (or within 30 days after a death resulting from such an accident), and failure to do so will usually bar any claim for compensation. A subsequent claim for benefits must generally be filed with the Commission within 60 days after the date of the accidental injury (or, when death results from the injury, within 18 months from the date of death). The Commission must investigate each claim filed, order a hearing upon the request of either the employer or the worker, and grant or deny an award within 30 days after the claim is filed or the hearing is concluded.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

■ FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 - 7-507

RELATED REGULATIONS: Md. Code Regs. 09.12.45

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, by requiring such persons to obtain a license from the state and by imposing certain responsibilities on contractors and those who use their services. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Except for agricultural employers, agricultural associations and their employees, no person may recruit, solicit, hire, employ, furnish, transport or house migrant agricultural workers in Maryland for compensation unless the person obtains a license to do so from the state. A farm labor contractor must carry the license at all times while engaging in farm labor contracting activities in the state and must exhibit the license to all those with whom the contractor intends to deal in that capacity.

DUTIES AND RESPONSIBILITIES —

Disclosures — Before entering Maryland with migrant agricultural workers for purposes of employment, or before recruiting migrant farmworkers within the state, every farm labor contractor must disclose to each worker in writing (1) the place or places where employment will take place and a description of the crops and crop operations involved, (2) the terms and conditions of employment at each location, including what wage rates will be paid, who will be making payment, and when wages will be paid, (3) the transportation, housing and insurance, if any, to be provided and the costs to be charged for each such service or benefit, and (4) the existence of any known labor dispute at each worksite.

Housing — If a farm labor contractor furnishes any housing for migrant agricultural workers, the contractor must ensure that the terms and conditions of occupancy are posted conspicuously throughout the duration of the stay.

Form of Disclosure — All information required to be provided to the workers by a labor contractor must be given in writing, in English or, as necessary and reasonable, in Spanish or any other language understandable by those workers not fluent or literate in English.

Compliance with Agreements — Unless there is just cause for non-compliance, farm labor contractors must adhere to the terms of all written agreements made with agricultural employers and agricultural associations pertaining to contracting activity or worker protections, and must comply with all agreements made with the workers, including those described above relating to job conditions, transportation and housing.

Vehicles — Farm labor contractors who use vehicles for transporting migrant agricultural workers in Maryland, or who cause vehicles to be used for that purpose, must (1) assure that each such vehicle conforms to applicable federal and state safety standards, (2) ensure that each driver has a valid and appropriate class of license to operate the vehicle, and (3) have the required level of insurance coverage against liability for injury to persons or property arising from the ownership or operation of any such vehicle.

VERIFICATION OF LICENSE — No farm operator or any other person may use the services of a farm labor contractor to supply migrant agricultural workers unless the person first verifies that the contractor is licensed. Furthermore, no one may engage or continue to use the services of a contractor once he or she is notified by the state enforcement agency or otherwise becomes aware that the contractor is not licensed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for issuing farm labor contractor licenses in Maryland and for assuring compliance by contractors and agricultural employers with the terms of this law. The agency has authority to investigate complaints involving farm labor contracting activity and may enter any place of employment, migratory labor camp or other migrant worker housing facility to do so.

Farm labor contractors operating without a required license are subject to cease-and-desist action by the agency, and any violation of the law and the associated regulations may result in assessment of a civil money penalty by the agency. The state attorney general, at the agency's request, is authorized to enforce any such order or penalty. In addition, criminal charges may be brought against any contractor who willfully or repeatedly violates the farm labor contractor provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE APPLICATOR'S LAW

STATUTORY CITATION: Md. Code, Agric. §§ 5-201 – 5-211

RELATED REGULATIONS: Md. Code Regs. 15.05.01

GENERAL SUMMARY: The Pesticide Applicator's Law regulates the application of pest control products in Maryland, by (1) requiring certification of pesticide applicators and training of their employees, (2) requiring proof of financial responsibility of commercial applicators, (3) prescribing general application practices, and (4) authorizing the adoption of detailed regulations governing pesticide use, disposal procedures, and recordkeeping.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — Individuals who are in the business of applying pesticides to other people's property for hire, as well as private agricultural producers who apply restricted-use pesticides to their own crops, must have a certificate issued by the state, affirming their competence to use and apply such products safely. Applicants for any commercial-class certificate must demonstrate competence by passing a written examination, while private applicators have the option of enrolling in a state-approved training course.

INSURANCE — Each business performing pest control work must provide the state agency with proof of financial responsibility by obtaining and maintaining liability insurance. The policy must provide bodily injury coverage of at least \$100,000 per person and \$300,000 per occurrence, and property damage coverage of at least \$15,000 per occurrence and \$30,000 annual aggregate.

EMPLOYEE TRAINING PROGRAMS — Licensees and permit-holders must register all of their employees who perform pest control operations with the state enforcement agency. Within 30 days after employment and before registration, each such employee (other than a certified applicator) must successfully complete a state-approved training program.

GENERAL APPLICATION PRACTICES — All commercial applications of any pesticide must be under the supervision of a certified applicator, and private agricultural application of restricted-use pesticides must be performed by or under the supervision of a certified private applicator. In both cases, the certified applicator is responsible and liable for the application. It is illegal for anyone to use, apply or recommend use of a pesticide other than as specified by the label, which includes the material attached to the container, information furnished with the product, or any information contained in the approved state registration.

RECORDKEEPING — Each licensee and permit-holder must keep, and preserve for at least 2 years, a record of each pesticide application. The record must include the applicator's name, the date of the application, the site where the application was made and the pest involved, the target area address and the name of the owner or tenant, the name of the pesticide product and its EPA registration number, the concentration and rate of application, the total amount of the product used, the type of equipment used, and the wind speed and direction at the site when the product was applied.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Regulation Section, Maryland Department of Agriculture, Annapolis, Maryland 21401 (410-841-2766). In addition to its licensing and certification role under the Pesticide Applicator's Law, this agency may sample any pesticide, inspect any device or equipment used in pest control operations, and observe any pesticide application performed by a certified applicator or anyone under the supervision of a certified applicator. Anyone who violates any provision of the law is subject to criminal charges, as well as civil penalties of up to \$2,500 for a first offense and \$5,000 for repeat offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who has suffered injury from a pesticide application has a right to bring civil action to recover damages, utilizing private legal counsel or a public legal service provider.

○ MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-401 – 5-410

GENERAL SUMMARY: With few exceptions, the Maryland Occupational Safety and Health Act requires employers to comply with the federal hazard communication regulations adopted by the U.S. Department of Labor (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication). In brief, those regulations require employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job, through the use of product labeling, safety data sheets, and employee information and training programs.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to comply with the federal hazard communication standard does not apply to farm employers who utilize hazardous chemicals in their farm operation, provided they comply with applicable requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 - 5-1103

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Maryland's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) but may be enforced against any agricultural operation in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

TRANSPORTATION

■ FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 - 7-507

RELATED REGULATIONS: Md. Code Regs. 09.12.45

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, including the provision of worker transportation. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS: Farm labor contractors who use vehicles for transporting migrant agricultural workers in Maryland, or cause vehicles to be used for that purpose, must comply with these requirements:

VEHICLE SAFETY STANDARDS — Each vehicle used to transport migrant farmworkers must conform to applicable federal and state safety standards.

DRIVER LICENSING — Each driver of a vehicle used to transport migrant farmworkers must have a valid and appropriate class of license to operate the vehicle.

INSURANCE — Each vehicle must be insured against liability for injury to persons or property. For vehicles designed for 12 or fewer passengers, the minimum liability limits for bodily injury are \$100,000 per person and \$300,000 per accident, and \$50,000 for property damage. In the case of vehicles designed for more than 12 passengers, minimum coverage for bodily injury per accident increases to \$500,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). Representatives of this agency are authorized to inspect vehicles subject to these provisions, examine the driver's license of anyone operating such a vehicle, and request proof of insurance. Violators are subject to civil penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MARYLAND WAGE AND HOUR LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-401 – 3-431

RELATED REGULATIONS: Md. Code Regs. 09.12.41

GENERAL SUMMARY: Among other provisions, the Wage and Hour Law establishes a state minimum wage of \$8.75 an hour beginning July 1, 2016. The minimum wage is scheduled to rise to \$9.25 on July 1, 2017, and \$10.10 on July 1, 2018.

With some exceptions, the requirement to pay the minimum wage applies to most employers in Maryland. The right to receive the minimum wage applies to most employees, but it does not apply, among other exceptions, to any child under the age of 16 who is employed no more than 20 hours in a week.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — Farm operators and other agricultural establishments that used more than 500 worker-days of agricultural labor in each calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are generally required to pay their agricultural workers no less than the state minimum wage for every hour of employment.

EXCEPTIONS — Subject employers, as described above, are not obligated to pay the minimum wage to workers in either of the following exempt classifications:

- (1) Individuals who (a) are employed as hand-harvest workers and paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (b) commute to the farm daily from their permanent residence, and (c) were employed in agriculture for less than 13 weeks in the preceding calendar year.
- (2) Workers 16 years of age or younger who are (a) employed as hand-harvest piece-rate workers in a recognized piecework operation, (b) employed on the same farm as their parent or a person standing in the place of their parent, and (c) paid at the same piece rate paid to workers over age 16 on the same farm.

RECORDKEEPING AND POSTING — Every farm employer subject to any provision of the Wage and Hour Law must make, and retain for a period of at least 3 years, a record of the name, address and occupation of each employee, the worker's rate of pay, the amount paid each pay period, and the hours worked each day and each workweek. The employer is also required to post a summary of the law and its associated regulations in a conspicuous and accessible location in or about the workplace.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Wage and Hour Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). The law requires the Division of Labor and Industry to vigorously enforce the policies embodied in it and grants agents of the Division the authority to enter any workplace in the state, examine and copy payroll records, and question employees. Any worker who has not received full wages in accordance with the law may file a wage claim with the Division, which is authorized to take assignment of the claim and bring court action to collect the claim on the worker's behalf. Employers who pay less than the required minimum wage may be fined up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Workers have the option of bringing private suit against an employer for recovery of unpaid wages under the Wage and Hour Law, as an alternative to enforcement by the Division of Labor and Industry. A judgment in the plaintiff's favor may, in addition to the wages involved, include court costs and attorney's fees.

→ MARYLAND WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-401 – 3-431

RELATED REGULATIONS: Md. Code Regs. 09.12.41

GENERAL SUMMARY: The Wage and Hour Law generally requires, among other things, that subject employers pay their non-exempt employees a wage of $1^{1}/2$ times their usual hourly wage rate for any hours worked in excess of 40 during any workweek. With some exceptions, the overtime requirement applies to most employers in Maryland, and the right to overtime pay applies to most employees other than children under the age of 16 who are employed no more than 20 hours in a week.

PROVISIONS APPLICABLE TO AGRICULTURE

PREMIUM OVERTIME — A farm employer who used more than 500 worker-days of agricultural labor in each calendar quarter of the preceding calendar year must pay each covered worker overtime wages equal to 1½ times the worker's usual hourly wage rate, but only for any time worked in excess of 60 hours during any workweek.

EXCEPTIONS — Subject employers, as described above, are not obligated to pay overtime to workers in either of the following exempt classifications:

- (1) Individuals who (a) are employed as hand-harvest workers and paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (b) commute to the farm daily from their permanent residence, and (c) were employed in agriculture for less than 13 weeks in the preceding calendar year.
- (2) Workers 16 years of age or younger who are (a) employed as hand-harvest piece-rate workers in a recognized piecework operation, (b) employed on the same farm as their parent or a person standing in the place of their parent, and (c) paid at the same piece rate paid to workers over age 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Wage and Hour Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). Any non-exempt farmworker who is employed by an employer subject to the Wage and Hour Law and who does not receive overtime pay as required may file a wage claim with the Division. The agency must investigate the claim, and if the charge appears valid, may take action to collect the unpaid wages on the worker's behalf. In addition to civil liability, employers who violate the law's overtime provisions are subject to criminal prosecution and fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers have the option of bringing private suit against an employer for recovery of unpaid wages under the Wage and Hour Law, as an alternative to enforcement by the Division of Labor and Industry. A judgment in the plaintiff's favor may, in addition to the wages involved, include court costs and attorney's fees.

MARYLAND WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-501 – 3-509

GENERAL SUMMARY: The Wage Payment and Collection Law sets general guidelines for the payment of compensation and establishes a process for collecting claims for unpaid wages. These provisions apply without exception to all industries and occupations in the state.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — In general, every employer must establish regular pay periods and pay all employees at least once every two weeks or twice each month. If the regular payday falls on a non-workday, employees must be paid on the preceding workday. Employers must notify employees at the time of hiring as to their respective rates of pay and the regular designated payday.

MEDIUM OF PAY — Wages must be paid in lawful U.S. currency, by check payable at face value on demand in lawful U.S. currency, by direct deposit to a bank account specified by the employee, or with a debit card. Any fees applicable to a debit card must be disclosed to the employee in writing, in at least 12-point font.

PAY STATEMENTS — Every employer must furnish each employee with a statement of gross earnings and deductions for each pay period.

WAGE DEDUCTIONS — Under most circumstances, no employer may make any deduction from an employee's wages unless the deduction is authorized by law, formally ordered by a court, or expressly authorized in writing by the employee.

FINAL PAY — Upon termination of employment, a worker must receive all wages due, for all services performed, on or before the date the worker would have been paid for such services had the employment not been terminated.

WAGE CLAIMS — Any worker who has not received payment in accordance with these provisions may file a written complaint of alleged violation with the state. The state agency will normally investigate the claim and, if a violation is determined to have occurred, will attempt to resolve the pay issues involved informally. With the claimant's consent, the agency may institute legal action to collect sums unlawfully withheld from the worker, and if the court finds the employer failed to pay wages for reasons other than a bona fide dispute, the court may award the worker up to three times the amount of unpaid wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). Aside from liability for unpaid wages and damages, employers who violate the Wage Payment and Collection Law are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the state agency, after 2 weeks have elapsed from the date on which an employer is required to have paid the wages, a worker who has not received pay in accordance with the provisions outlined above may take legal action against the employer to collect unpaid wages directly, using a private attorney or a public legal service provider. If the court finds that the employer withheld wages in violation of these provisions and not as a result of a bona fide dispute, the court may award the worker up to three times the amount of the unpaid wages, plus reasonable attorney's fees and other costs.

STATUTORY CITATION: Md. Code, Tax-Gen. §§ 10-101 - 10-913

GENERAL SUMMARY: The state income tax laws generally require every employer utilizing the services of an employee to deduct, withhold, and pay over to the state treasury, income tax on the wages paid to each such employee. For purposes of state income tax withholding, the term "wages" has the same meaning as the term is defined in the federal Internal Revenue Code.

On or before January 31 of the following year, the employer is required to provide the worker with a written statement showing the employer's name, the worker's name, the worker's total wages, and the amount of state income tax withheld during the year being reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Maryland must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Comptroller of Maryland, Annapolis, Maryland 21411 (410-260-7980). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 56 - 105

GENERAL SUMMARY: The child labor laws contain limitations on the hours during which employment of minors under 18 years of age is authorized and the industries and occupations in which minors under 21 may be employed. The child labor laws also bar the employment of minors without an employment permit under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE

GENERAL FARM OPERATIONS —

Minors Under Age 14 — Children under 14 may not work in agriculture during the hours when the public schools are in session, nor before 6:30 a.m. or after 6:00 p.m. No one under the age of 14 may be employed in farmwork for more than 4 hours in any one day, or more than 24 hours in any one week, unless related by blood or marriage to the farm owner or operator.

Minors Age 14 and 15 — As in most other industries, 14- and 15-year-olds are not permitted to work in agriculture during school hours, or between the hours of 7:00 p.m. and 6:30 a.m. (between 9:00 p.m. and 6:30 a.m. from July 1 through Labor Day). Persons 14 and 15 years of age may not work more than 6 days in any one week, 48 hours in any one week, or 8 hours in any one day. Furthermore, if the work performed by any such child in a day is not continuous, but is divided into two or more periods, the employer must arrange the child's work so that all such periods of work fall within a span of 9 consecutive hours, including time spent in school. Such minors must generally obtain an employment permit from the local school superintendent, authorizing them to work for the particular employer specified in the permit.

Minors Age 16 and Over — There are generally no restrictions or limitations on the employment in agriculture of any worker 16 years of age or older.

HAZARDOUS OPERATIONS — In general, no one under 16 may be employed in ensilage cutting, on or around hazardous machinery or gearing when it is in motion, on moving motor vehicles, or in stripping, sorting or packing tobacco.

MEAL TIME — No minor (or anyone else) may be required to work for more than 6 hours during a calendar day without a break of at least 30 minutes for a meal.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Fair Labor Division, Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465). Representatives of the Attorney General's office are authorized to enter most workplaces in the state to investigate the employment of minors, and such officials are accorded access rights to all records pertaining to wages, hours and other conditions of employment which are deemed essential to such investigations. Both the employer of any child found to have been employed in violation of the child labor laws, and any parent or guardian who permits a child under his or her control to be so employed, are subject to a criminal fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Public school superintendents, or officers authorized by local school committees, are responsible for issuing employment permits to eligible minors within their jurisdiction. Likewise, attendance supervisors employed by local school committees are authorized to visit places where minors may be employed and must report to the Attorney General's office any case of illegal child labor that they encounter in the performance of their duties.

SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 76, §§ 1 - 21

RELATED REGULATIONS: 603 Mass. Code Regs. 8.02

GENERAL SUMMARY: With some exceptions, every child between the ages of 6 and 16 who resides in Massachusetts must attend a public day school, or receive approved equivalent private instruction, during the school year prescribed by the state board of education. Every person in control of a child of compulsory school attendance age must assure that the child attends school as required.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no agriculturally-related exceptions to the school attendance requirement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced in the courts, through local attendance supervisors employed by the respective school committees. The local schools are also responsible for issuance of employment permits, in many cases a prerequisite for the lawful employment of minors. Parents and guardians who fail to comply with their duty to assure the required school attendance of any child in their custody are subject to prosecution and fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Mass. Gen. Laws Ch. 152, § 28

GENERAL SUMMARY: The employment of any minor in violation of the state child labor laws is generally deemed serious and willful misconduct under the Massachusetts workers' compensation law. If such a minor is injured in the course of the job, the employer is liable for double the amount of compensation otherwise payable for the injury. Moreover, the employer is responsible for reimbursing his or her insurer for any extra compensation paid by the insurer for a claim in any such case.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employers in other sectors, agricultural employers who utilize unlawful child labor are subject to the double-compensation provision of the workers' compensation law, and any minor employed illegally in farmwork at the time of a work-related accident is generally entitled to twice the normal workers' compensation award for any compensable injury sustained.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249). The Department is responsible for assuring the payment of workers' compensation to employees who suffer compensable injury, including those minors who may be employed contrary to the child labor laws. In the event of a controversy over eligibility for compensation or the ongoing payment of benefits, the Department is charged with investigating the facts and rendering a final administrative decision, reviewable by the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

STATE CIVIL RIGHTS LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 151B, §§ 1 - 10

GENERAL SUMMARY: The state's primary civil rights law prohibits, among other unlawful activities, employment discrimination on the basis of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, age, or military service. The law is generally applicable to for-profit employers with 6 or more employees, without regard to their agricultural or non-agricultural status.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Employers are forbidden, on the grounds of an individual's race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, or ancestry, from discharging from employment or refusing to hire the individual, or from discriminating against the individual in compensation or in the terms, conditions or privileges of employment, unless such treatment is based on a bona fide occupational qualification. Moreover, it is unlawful for any employer in the private sector to fire, refuse to hire, or otherwise discriminate against a person who is at least 40 years old, because of the person's age. Similar discriminatory acts based on a worker's military service are also prohibited.

Any statement, advertisement, publication or job application printed, circulated or used by an employer or employment agency which directly or indirectly expresses any limitations, specification or discrimination as to race, color, religious creed, national origin, sex, gender identity, sexual orientation, age, genetic information, ancestry, or the handicap of a qualified handicapped person is likewise illegal, unless based on a bona fide occupational qualification.

COMPLAINTS — Anyone claiming to have suffered from an act of employment discrimination outlawed by these provisions may file a complaint with the state enforcement agency at any time within 300 days after the act occurred. If the state agency, after prompt investigation, finds probable cause for crediting the allegations, the agency must try to eliminate the unlawful practice involved through conference, conciliation and persuasion. A formal hearing must be called whenever efforts at informal resolution are unsuccessful, and the agency may order the violating party to cease and desist if evidence presented at the hearing sustains the belief that a violation has, in fact, occurred. The law also authorizes the state agency to order affirmative relief (including hiring, reinstatement, promotion or similar action, with or without back pay) upon a finding that a respondent has engaged in an unlawful practice.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal to intimidate, threaten, coerce, interfere with, or discriminate against an individual because he or she has filed a complaint under this law, testified or participated in any other way in a related investigation or hearing, or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Commission Against Discrimination, Boston, Massachusetts 02108 (617-994-6000). The Commission is responsible for investigating and resolving unlawful employment practice charges under these provisions, as described above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any person aggrieved by an unlawful employment practice may, at the expiration of 90 days after filing a complaint with the Commission, file a civil lawsuit for damages, injunctive relief, or both. The petitioner must notify the Commission of any such action, and any complaint before the Commission will be dismissed, barring any future complaint before the Commission on the same matter. No private civil action may be filed later than 3 years after the alleged unlawful practice occurred.

O EQUAL PAY LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, § 1 and §§ 105A - 105C

GENERAL SUMMARY: No employer may discriminate in the payment of wages on the basis of sex, or pay any person at a salary level or wage rate less than the rate paid to employees of the opposite sex for work of like or comparable character, or work on like or comparable operations. This prohibition does not preclude wage variations based on differences in seniority.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision **does not apply** to employees engaged in agricultural service.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — On August 1, 2016, the Governor of Massachusetts signed into law a bill amending these provisions by (1) explicitly defining the terms "comparable work," "working conditions," and "wages," (2) substantially rewording the equal-pay requirement, and (3) extending the time for lodging an equal-pay claim from 1 to 3 years. The amendments, which take effect on January 1, 2018, *do not alter the exclusion of agricultural employees* from coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Massachusetts Attorney General, Boston, Massachusetts 02108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O STATE LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 24A – 24J

GENERAL SUMMARY: With few exceptions, the dismissal from private-sector employment of any person over the age of 40, or refusal to employ such a person, because of the person's age, is a criminal offense, punishable by a fine of up to \$500. Any contract, agreement or understanding that prevents the private employment of individuals over 40 on the basis of age is generally null and void. After a formal hearing and a finding that an employer has committed an act of age discrimination, the state enforcement agency may publish in one or more newspapers of general circulation the employer's name and a notice of the employer's violation of this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law **does not apply** to persons employed as farm laborers.

PRIMARY ENFORCEMENT AGENCY — Office of the Massachusetts Attorney General, Boston, Massachusetts 02108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HEALTH AND SAFETY

O STATE LABOR LAWS (WORKPLACE HEALTH AND SANITATION)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 106 and 133

GENERAL SUMMARY: All industrial establishments in Massachusetts must provide fresh and pure drinking water to which their employees have access during working hours. Likewise, suitable, adequate and convenient toilet and washing facilities must be provided in every industrial establishment, with separate facilities for each sex.

PROVISIONS APPLICABLE TO AGRICULTURE: Chapter 149 of the state labor laws, including the sanitation provisions, does not apply to persons employed as farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Massachusetts Attorney General, Boston, Massachusetts 02108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PUBLIC HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, § 127A

RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: Chapter 111 of the state statutes includes a provision authorizing the adoption of regulations governing the health and sanitation of farm labor camps, defined in short as any building, vehicle or other structure which contains sleeping facilities provided in connection with farm employment, and which is occupied or intended for occupancy by 2 or more farmworkers or members of their families.

Among other rules incorporated into the state sanitary code by the health department to protect farmworkers living in employer-provided housing, the farm labor camp standards require camp operators to provide drinking water and toilet facilities to camp occupants while they are on the job.

SPECIFIC TERMS AND CONDITIONS

WATER FOR SHED AND FIELD WORKERS — Where running water from an approved source is not available, operators of farm labor camps (as defined above) are required to make drinking water readily available to both shed and field workers. Water must be kept in covered containers which have been disinfected and maintained in clean and sanitary condition.

TOILET FACILITIES — When farm activities require workers to be more than 750 feet from the main toilet facilities at the camp and transportation to the camp is not immediately available, the camp operator must provide toilets within 750 feet of the work area. There must be at least one such unit for every 100 workers, with separate facilities for each sex. The camp operator is responsible for maintaining a sufficient supply of toilet paper, and for keeping the facilities clean, sanitary and in good repair.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757). The Department may respond to any complaint regarding violations of the state sanitary code, including the field sanitation provisions in the farm labor camp rules. The agency may petition the superior court to restrain and enjoin continued non-compliance. Violators are subject to a criminal fine of up to \$500 per day.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state sanitation code, including the field sanitation provisions, may be enforced by local boards of health.

HOUSING

PUBLIC HEALTH LAWS (FARM LABOR CAMPS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, §§ 127A and 128G

RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: Chapter 111 of the state statutes includes provisions authorizing the adoption of regulations governing the health and sanitation of farm labor camps, and requiring inspection of all such facilities once a year. As administratively defined, in short, a farm labor camp is any building, vehicle or other structure which contains sleeping facilities provided in connection with farm employment, and which is occupied or intended for occupancy by 2 or more farmworkers or members of their families.

SPECIFIC TERMS AND CONDITIONS

INSPECTION AND CERTIFICATION — All farm labor camps must be inspected annually by the state enforcement agency or the local board of health. If, upon inspection, a camp meets the substantive standards outlined below, the state agency will issue a certificate of occupancy, which must be posted at the camp before the facility may be occupied in any year.

MINIMUM HOUSING STANDARDS — The state sanitary code prescribes the specific standards with which a farm labor camp must conform in order to qualify for a certificate of occupancy. The following is a summary of key provisions of the current standards:

Structures — Each camp building must be structurally safe, adequate in size for its use, easy to keep clean, and water-tight.

Lighting and Electrical Facilities — There must be adequate natural light in all living areas. Except where electricity is not available within 1,000 feet of the camp, living areas must be equipped with prescribed numbers of electric light fixtures and wall outlets. The camp operator is required to supply light bulbs for the required fixtures.

Sleeping Facilities — The camp operator must furnish a separate bed, cot or bunk for each camp occupant (or double beds for married couples) and must provide at least one clean mattress, one pillow, one pillow case, one blanket, one towel, and 2 sheets for each person. Beds must be maintained in good condition, and bedding must be kept clean and sanitary. There must be at least 50 square feet of floor space for each occupant over 2 years of age in each sleeping room.

Exits — Buildings used for human habitation are required to have at least 2 unobstructed exits on each floor where there are sleeping or eating facilities.

Cooking and Eating Facilities — Cooking and eating space which complies with prescribed standards of size and construction must be provided when camp occupants are permitted or required to cook in individual units, or to cook and eat in congregate facilities. Functioning stoves and refrigeration, adequate food storage and preparation space, cooking and eating utensils, suitable mealtime seating arrangements, and adequate sinks with hot and cold running water under pressure are required.

Screening — All doors, windows and other openings in exterior walls of habitable buildings must be properly screened, and screen doors must be self-closing.

Insect and Rodent Control — The camp operator is required to take steps to prevent entry and multiplication of flies, roaches, rodents and other pests in the camp area.

Water Supply — Water from a state-approved or public water supply must be made available at each camp, in minimum prescribed quantities and through plumbing fixtures which meet prescribed specifications. Common drinking utensils are prohibited.

Bathing Facilities — The camp must be equipped with at least one showerhead or bathtub for the first 12 occupants, and one such unit for every 15 thereafter. Handwashing facilities, in a minimum ratio of one wash basin for every 12 residents, must be supplied with soap. Except in family units, there must be separate bathing areas for males and females. The use of common towels is not permitted.

Laundry Facilities — There must be at least one laundry tub or washing machine for every 20 camp occupants (one for every 25, if only men are housed), along with adequate clothes-drying facilities.

Toilets — Clean, sanitary toilet facilities must be provided in a minimum ratio of one unit for each 10 occupants. Other than those in family quarters, toilet facilities for each sex must be separated and clearly marked. Toilets must be located within 200 feet of the door of the sleeping room of the occupants who are expected to use them, but no privy may be located any closer than 100 feet of a sleeping, cooking or eating room. The camp operator is responsible for supplying toilet paper.

Sewage Disposal — All drainage systems must be connected to a public sewer or an approved alternative means of subsurface disposal.

Storage and Disposal of Refuse — Water-tight, fly-proof trash and garbage receptacles must be provided by the operator. Refuse containers must be disposed of by the operator no less often than twice a week.

Heating — To the extent that the camp is occupied at any time from September 15 through the following May 15, living areas must be equipped with heating facilities capable of maintaining a temperature of at least 68 degrees F. Heaters using combustible fuel must be properly vented, and all heaters must be safely installed.

Safety — Camps must be built and maintained in accordance with state and local fire and safety laws. The camp operator must provide a standard 24-unit first-aid kit and see that it is kept stocked and accessible to camp occupants.

Hazardous Materials — Agricultural pesticides and toxic chemicals may not be stored in the housing area, and flammable liquids or materials (other than those needed for current household use) may not be stored in or adjacent to occupied rooms.

COMPLAINTS — Any occupant of a farm labor camp or other interested party who has knowledge of a violation of the standards applicable to such facilities may file a written complaint with the state agency or the local board of health. The state agency is required to investigate each such complaint within 30 days after filing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757). The Department is responsible for inspecting farm labor camps in the state and issuing occupancy certificates to those found in compliance with the labor camp standards. The agency must also respond to complaints regarding such facilities and is authorized to revoke the certificate of any camp determined on inspection to have violated the state sanitary code. The Department may petition the superior court to restrain and enjoin continued violations. Violators are subject to a criminal fine of up to \$500 per day.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state sanitation code, including the farm labor camp provisions, may be enforced by local boards of health.

PUBLIC HEALTH LAWS (ACCESS TO FARM LABOR CAMPS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, § 128H

RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: In addition to the health and sanitation requirements applicable to farm labor camps, Chapter 111 of the state statutes includes a provision which guarantees residents' rights to access and visitation at those facilities.

SPECIFIC TERMS AND CONDITIONS: During the period of employment, every migrant farmworker who shares living quarters with the employer or resides on the employer's property has the right to enter and leave the premises at will. Likewise, workers occupying housing other than the employer's own residence may exercise reasonable rights of visitation in their living quarters outside regular working hours. In either case, the certificate of occupancy issued by the state enforcement agency for such a labor housing facility must include a notification of these rights, in English and Spanish.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757). Any migrant worker who is living in a farm labor camp or other housing furnished by the employer and who is denied access, or whose guests are denied access, to such housing may file a complaint with the Department. The Department, in turn, is authorized to petition the superior court to restrain or enjoin such a violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state sanitation code, including the farm labor camp access provisions, may be enforced by local boards of health.

INSURANCE AND COMPENSATION

UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 151A, §§ 1 - 74

GENERAL SUMMARY: The Unemployment Insurance Law requires most employers in Massachusetts to pay contributions to the state unemployment compensation fund, and authorizes the payment of monetary benefits from the fund to unemployed workers who meet specified earnings and other eligibility requirements. In general, employers are required to pay UI taxes if they have at least one worker performing covered services and pay at least \$1,500 in wages in any calendar quarter.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers that (1) during any calendar quarter of the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) employed 10 or more workers for agricultural labor on some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, are liable for state unemployment insurance taxes on behalf of their employees. The amount of contributions due from each subject employer is normally equal to the employer's annually assigned tax rate, multiplied by the first \$15,000 in wages paid to each employee during the calendar year.

ELIGIBILITY FOR BENEFITS — In order to be eligible for unemployment insurance benefits, an individual generally (1) during the four calendar quarters immediately preceding the claim, must have earned at least \$4,300 in subject wages and at least 30 times the weekly benefit rate, explained below, (2) must be able to work, available for work and actively seeking work, and (3) must have given notice of his or her unemployment by registering either in a public employment office or in such other manner as the state administering agency prescribes.

AMOUNT OF BENEFITS — In general, a farmworker or other unemployed claimant who is otherwise eligible for benefits is entitled to a weekly benefit equal to 50 percent of the worker's average weekly earnings in the two high-earnings quarters during the four-quarter period immediately prior to filing a claim; the maximum benefit is currently \$742 a week. An eligible claimant's actual UI payment for a particular week is equal to the weekly benefit amount, minus that part of the week's earnings, if any, in excess of 1/3 of the weekly benefit amount.

DEPENDENTS' ALLOWANCE — In addition to the basic UI benefit described above, a claimant will normally receive for each week of unemployment the sum of \$25 for each dependent child under the age of 18 for whom the claimant provides whole or main support, up to a total dependency benefit of 50 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Unemployment Assistance, Boston, Massachusetts 02114 (617-626-6500). This agency is responsible for processing unemployment compensation claims and appeals, and for the payment of benefits. The agency also determines the liability of employers for UI contributions and enforces the collection of contributions from those employers found liable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 152, §§ 1 - 86

GENERAL SUMMARY: The Massachusetts workers' compensation law compels most employers in the state to provide compensation to their employees who suffer personal injury in the course of their employment. Compensation includes (1) weekly cash benefits for incapacity, (2) the furnishing of medical and hospital services, required medicines, physicians' services, and payment of related costs, and (3) payment of death benefits and funeral costs.

An employer may meet the obligation to provide compensation by purchasing a standard workers' compensation insurance policy, or by obtaining from the state an annual license as a self-insurer. Self-insurers are required to deposit certain security with the state treasurer or furnish a surety bond, payable to the state. In addition to continued liability to the employee, failure by an employer to provide required compensation to an employee injured in a job-related accident is punishable as a criminal offense.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies implicitly to all agricultural employers in Massachusetts, to the same extent as employers in other sectors, and farmworkers are entitled to workers' compensation benefits on the same terms as their counterparts in other covered industries.

PRIMARY ENFORCEMENT AGENCY — Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249). The Department is responsible for assuring the payment of workers' compensation to employees covered by the law who suffer compensable injury. A worker who is injured on the job should promptly notify the employer, who in turn is required to advise the Department of the injury within 48 hours. Within 14 days of receipt of the worker's notice of injury, the employer or the employer's insurer must either commence payment of weekly benefits or advise the worker and the Department of its intention to contest the claim. In the event of a controversy over eligibility for compensation or the ongoing payment of benefits, the Department is charged with investigating the facts and rendering a final administrative decision, reviewable by the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ MINIMUM FAIR WAGE LAW (MIGRANT WORKER COMPULSORY HEALTH INSURANCE)

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, § 2B

GENERAL SUMMARY: The Minimum Fair Wage Law includes a provision requiring certain agricultural employers to provide health insurance to migrant farmworkers in their employ. A migrant farmworker is defined in the law as an employee (other than a worker covered by a family medical plan, or a secondary- or post-secondary student) who seasonally travels between states for purposes of employment and who lives in employer-provided labor housing.

SPECIFIC TERMS AND CONDITIONS: Every agricultural employer in Massachusetts who employs and furnishes housing to a migrant farmworker not under a government-approved employment contract must, after 10 days of employment, provide the worker with health insurance covering hospitalization, hospital services and supplies, X-ray examination, surgical fees, and in-hospital physicians' fees. The law authorizes the employer to withhold from the worker's wages up to 40 percent of the insurance premium, with the employer required to pay at least 60 percent of the total cost. For any week during which such a policy is in effect, and during which the worker is disabled and unable to work or the employer fails to withhold the worker's weekly share of the insurance cost, the employer is liable for payment of the entire premium for that week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). As part of its wider responsibility and authority under the Minimum Fair Wage Law, the Department may enter any place of employment and inspect the employer's records to assure compliance with the compulsory health insurance provision. A migrant farmworker who is living in a housing facility provided by the employer, has been on the job for more than 10 days, and has reason to believe he or she is not covered by a required health insurance policy should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 140, §§ 46A - 46R

RELATED REGULATIONS: 454 Mass. Code Regs. 24.00

GENERAL SUMMARY: Chapter 140 of the state statutes includes provisions regulating employment agencies, briefly defined as individuals or businesses that, for a fee, attempt to find employment for workers or workers for employers. These provisions may apply to farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open, operate or advertise an employment agency in Massachusetts without obtaining a license to do so from the state. The license application must include affidavits from two reputable residents of the state attesting that the applicant is of good moral character.

BOND — Each licensed employment agency must obtain a bond in the amount of \$3,000 as security for the payment of any damages caused in connection with the agency's activities.

RECORDKEEPING — The agency must keep a register of all applicants seeking employment and all employers seeking workers, to include the nature of the employment involved, the wages offered or accepted, and the fees paid by the worker or the employer. These records must be kept for at least 3 years following the date of the last entry.

PROHIBITED ACTS — Among other prohibited acts, it is illegal for an employment agency, whether licensed or not, (1) to publish any false, fraudulent or misleading information regarding employment, (2) to send a worker to a job site without first obtaining a bona fide job order, or (3) to send a worker to a job site affected by a strike.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). This agency has authority to inspect the premises, registers, contract forms and other records of employment agencies doing business in Massachusetts, and may investigate any complaint lodged against a licensed employment agency by a worker or employer. The Department may suspend or revoke the license of any agency found to have violated any provision of the employment agency law. Violations are punishable by fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

■ STATE LABOR RELATIONS LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 150A, §§ 1 - 12

GENERAL SUMMARY: With the aim of mitigating and eliminating obstructions to the free flow of industry and trade, the State Labor Relations Law encourages the practice of collective bargaining in Massachusetts and protects employees' exercise of freedom of association, self-organization, and designation of collective bargaining representatives of their own choosing. Among other provisions, the law affirms the labor rights of employees, defines certain unfair labor practices, prescribes procedures for the prevention of unfair labor practices, and establishes a state-administered mechanism for determining appropriate bargaining units and holding representational elections.

PROVISIONS APPLICABLE TO AGRICULTURE

REPRESENTATION AND ELECTIONS — Whenever a question arises concerning the representation of agricultural workers employed by a person or firm with a permanent hired workforce of more than 4 agricultural workers (other than members of the employer's family), the state administering agency must arrange for a secret-ballot election or other appropriate means of resolving the question. Representatives designated or selected for collective bargaining purposes by the majority of the employer's workers are the exclusive representatives of all the employer's workers for such purposes, though any individual worker or group of workers retains the right at any time to present grievances to the employer directly.

WORKER RIGHTS — The section of the law which affirms the right of employees to self-organization, to form, join and assist labor organizations, and to bargain collectively over terms and conditions of their employment, *does not apply* to agricultural workers.

UNFAIR LABOR PRACTICES — Those sections of the law which define and prohibit certain unfair labor practices by employers and employees *do not apply* to agricultural workers.

PREVENTION OF UNFAIR LABOR PRACTICES — The prescribed procedures for filing, investigating and resolving unfair labor practice charges *do not apply* to agricultural workers.

SPECIAL NOTES OR ADVISORIES

INTERPRETATION OF AGRICULTURAL WORKER EXEMPTION — Since the Labor Relations Law does guarantee the right of a majority of workers on farms with more than 4 permanent agricultural employees to be represented for purposes of collective bargaining, and provides that representatives so chosen must represent all the workers in the bargaining unit, it can be argued that the provisions in the law that define and prohibit unfair labor practices also apply, and that the Department of Labor Relations can enforce them in those cases. The courts have not yet interpreted how these provisions apply to farm labor, and the Department is not aware of any agricultural workers organized under this law.

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Relations, Boston, Massachusetts 02114 (617-626-7132). With respect to covered agricultural workplaces, the Department is authorized (1) to investigate petitions, either from subject employers or from covered workers, requesting certification or decertification of a labor organization, (2) to arrange elections for settling questions of representation, and (3) to certify to the parties, in writing, the name of the representatives who have been designated or selected.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

MASSACHUSETTS PESTICIDE CONTROL ACT

STATUTORY CITATION: Mass. Gen. Laws Ch. 132B, §§ 1 - 16

RELATED REGULATIONS: 333 Mass. Code Regs. 2.00 - 14.00

GENERAL SUMMARY: The Massachusetts Pesticide Control Act regulates the sale, distribution and use of pesticides in the state and requires, among other measures, certification and licensing of applicators and compliance with pesticide-related regulatory standards adopted by the state food and agriculture department.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING — No individual may apply general-use pesticides commercially unless the individual is appropriately licensed or certified by the state. Likewise, no one may use any restricted-use pesticide unless he or she is certified as a commercial or private applicator, or is a licensed applicator working under the direct supervision of an appropriately certified commercial or private applicator. Each applicant for certification or licensing must file an annual application, pay an annual application fee, demonstrate competence with respect to the use and handling of pesticides, maintain required levels of liability insurance covering injuries and damages caused by their pesticide operations, and continue to attend state-approved educational courses or seminars.

APPLICATOR RECORDKEEPING — All applicators are required to keep a record of each pesticide application. Among other information, the record must include the date and place of application, the name and registration number of the product used, the amount of the product used, the purpose of the treatment, and the method of application. Each applicator must also record the amount of liability insurance carried and the name of the insurer, and the illnesses or injuries caused or suspected as having been caused by pesticides and reported to the applicator.

PRIOR NOTICE OF CERTAIN APPLICATIONS — No restricted-use pesticide bearing the signal word "Danger" on the label may be applied to an agricultural crop within 50 feet of a public right-of-way unless notice of the application is given beforehand. Between 2 and 24 hours prior to the application, signs must be posted at least every 200 feet along the perimeter of the area to be treated, and at every principal entrance to the area, facing the public way. Among other content and visibility requirements, the signs must be at least 14 inches by 16 inches in size and contain the words "Danger," "Pesticides," and "Keep Out" — in English and Spanish, and in letters at least one inch in height. The signs must be removed no sooner than 48 hours after the application, and no sooner or later than the expiration of the restricted-entry period specified on the pesticide label.

GENERAL PROHIBITIONS — Among other unlawful activities defined in the Act, no one may use a registered pesticide in a manner that is inconsistent with its labeling or restrictions imposed by the state enforcement agency. It is also illegal for any person certified or licensed as a pesticide applicator to violate any provision, condition, term or restriction of the particular class of certification or license issued to such person.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S.—Pesticides & Agricultural Chemicals—General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY — Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781). Inspectors and other authorized representatives of the Department have the right to enter any premises, at reasonable times and with a properly executed search warrant, for the purpose of investigating specific complaints or suspected violations of the Pesticide Control Act. Both civil money penalties and criminal fines and imprisonment may be imposed on persons found to have violated any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MASSACHUSETTS PESTICIDE CONTROL ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 132B, §§ 1 - 16

RELATED REGULATIONS: 333 Mass. Code Regs. 13.04

GENERAL SUMMARY: Under authority of the Pesticide Control Act, the agriculture department has adopted regulatory standards related explicitly to application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — No one is authorized to apply pesticides by aircraft unless specifically certified by the state as an aerial applicator.

AERIAL APPLICATION PERMITS — Before any airplane or other fixed-wing aircraft may be used to apply pesticides to a particular field, a permit must be obtained from the state enforcement agency at least 21 days prior to the application, authorizing treatment of the field. The state agency will not issue such a permit until it can be determined that aerial application will not, among other things, be likely to cause injury to humans.

POSTING — Agricultural fields that are within 500 feet of a protected area (such as a school, hospital, residence or other building where people gather) and that are targeted for treatment by pesticides from the air must be posted with warning signs between 2 and 24 hours before the application. The signs must remain in place at least 48 hours after the field is treated and be removed no sooner than the expiration of the product's restricted entry interval. Each sign — at least 14 inches by 16 inches in size, and in at least one-inch lettering — must include the words "Danger," "Pesticides," "Keep Out," and the corresponding terms in Spanish.

APPLICATION CONDITIONS — Among other restrictions, aerial agricultural applications are prohibited when there is visible drift to non-target areas, and pilots are generally forbidden to make turns over protected areas and bodies of water.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781). Inspectors and other authorized representatives of the Department have the right to enter any premises, at reasonable times and with a properly executed search warrant, for the purpose of investigating specific complaints or suspected violations of the Pesticide Control Act. Both civil money penalties and criminal fines and imprisonment may be imposed on persons found to have violated any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PUBLIC HEALTH LAWS (HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111F, §§ 1 - 21

GENERAL SUMMARY: The Massachusetts public health laws include provisions requiring the disclosure of information by employers regarding toxic or hazardous substances at the workplace. These provisions apply to virtually all public and private employers, agricultural and non-agricultural.

SPECIFIC TERMS AND CONDITIONS

MATERIAL SAFETY DATA — Generally every employer who uses or stores at the workplace any substance on the official state listing of toxic and hazardous substances must obtain a material safety data sheet on the product from the supplier or manufacturer and make the data sheet available to employees at a central location at the workplace. The material safety data sheet is a prescribed document containing such information as (1) the chemical and common names of the substance, (2) the hazards or other risks associated with its use, (3) the proper precautions, handling practices and necessary protective equipment to be used, (4) appropriate emergency procedures, and (5) a description of the potential health risks posed by the substance.

WORKERS' RIGHT TO INFORMATION — Any worker in Massachusetts (or the worker's designated representative) may request in writing, and has a right to examine and obtain from the employer, a material safety data sheet for each toxic or hazardous substance to which the worker is, has been, or may be exposed on the job. The employer generally must provide data sheets within 4 working days of a request.

POSTING — Every farm operator who uses or stores toxic or hazardous substances in the workplace must post a notice in a central location, informing workers of their rights under these provisions.

INSTRUCTION — Within the first month of employment and annually thereafter, employers must furnish their employees with instruction on the nature and effects of the hazardous substances present in the workplace. Instruction may be provided in written form or through training programs, but in either case must be presented in non-technical language. Employers are required to cover such topics as the identity of each toxic substance involved, its location at the workplace, appropriate first-aid treatment and antidotes in the event of overexposure, proper handling practices, the health effects of the substance, and the rights and duties of workers under the disclosure law.

SPECIAL NOTES OR ADVISORIES

RESPONSIBILITY OF CREW LEADERS AND LABOR CONTRACTORS — Farmworkers employed by or through an independent farm labor contractor, insofar as such workers are exposed in the course of their employment to a toxic or hazardous substance in a workplace not owned or operated by the contractor, have the right to examine or obtain the material safety data sheet for that substance from the farm owner or operator, through a written request to the contractor.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A complaint charging such discrimination may be filed with the Department of Labor Standards within 180 days after the occurrence of the violation, or within 180 days after learning of such violation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6975). The Department is responsible for enforcing those sections of the hazardous substance disclosure law which define the rights and duties of workers and employers. Any worker whose rights under the law have been violated may file a complaint, within 120 days of the violation. The Department must investigate the charges and formally issue a finding. In the event of failure to resolve a confirmed violation informally, the Department may order appropriate remedial action, enforceable in the state courts. Willful and intentional violations are punishable by fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Right To Know Program, Massachusetts Department of Public Health, Boston, Massachusetts 02108. This agency is responsible for maintaining the Massachusetts hazardous substance list and disseminating information pertaining to the materials on the list.

WAGES AND HOURS

MINIMUM FAIR WAGE LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, §§ 1 – 22

GENERAL SUMMARY: The Minimum Fair Wage Law declares it against public policy for employers to employ workers in most occupations in Massachusetts at an oppressive and unreasonable wage. In general, a wage rate is conclusively presumed to be oppressive and unreasonable if it is less than \$11.00 an hour, effective January 1, 2017. With few exceptions, any contract, agreement or understanding providing for an hourly wage below this level is null and void.

Notwithstanding the foregoing, in no case may the state minimum wage be less than 50 cents an hour higher than the federal minimum wage.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast with the fair wage floor prescribed for most other industries in the state, farm operators and other agricultural employers are not presumed to be paying an oppressive and unreasonable wage as long as they pay their agricultural employees at least \$8.00 an hour.

The minimum agricultural wage does not apply to workers 17 years of age or under.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such retaliatory action is deemed a criminal offense.

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). The Department has authority to enter the premises of any employer, to review payroll records and question employees regarding reported or suspected violations of the minimum wage provision. A worker who has not received the applicable minimum fair wage may file a complaint with the Department, which must investigate the claim and may, with the worker's authorization, take assignment of the claim and bring legal action to collect it. In addition to liability for unpaid wages, court costs and attorney's fees, an employer who violates the minimum wage provision is subject to criminal prosecution, leading to a fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM FAIR WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, §§ 1A – 1B

GENERAL SUMMARY: The Minimum Fair Wage Law includes overtime provisions which generally forbid Massachusetts employers from employing anyone in a covered occupation for a workweek longer than 40 hours, unless the worker receives compensation at a rate not less than 11/2 times the worker's regular rate of pay for every hour of work after 40 hours.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime requirement of the Minimum Fair Wage Law **does not** apply to farmwork, or to anyone employed as a laborer in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O PUBLIC SAFETY LAWS (SUNDAY CLOSING)

STATUTORY CITATION: Mass. Gen. Laws Ch. 136, §§ 5 - 6

GENERAL SUMMARY: Chapter 136 of the state statutes provides that whoever on Sunday does any manner of labor, business or work (other than works of necessity and charity) shall be punished by a fine ranging from \$20 to \$100 for a first offense, and a fine of between \$50 and \$200 for each subsequent offense.

PROVISIONS APPLICABLE TO AGRICULTURE: Among other exceptions, the prohibition of work on Sunday **does not** apply to the cultivation of land, the raising and harvesting of agricultural products, or the making of cheese and butter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*

STATE LABOR LAWS (ONE DAY'S REST IN SEVEN)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 47 - 52

GENERAL SUMMARY: Except at the request of the employee, no employer may require any employee engaged in a covered commercial occupation to work on Sunday, unless the employee is allowed 24 consecutive hours off during the ensuing six-day period.

PROVISIONS APPLICABLE TO AGRICULTURE: The general requirement of one day's rest in seven does not apply to farm services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE LABOR LAWS (MEAL PERIODS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 100 - 102

GENERAL SUMMARY: With very few exceptions, no one may be required to work for more than 6 hours during a calendar day without a period of at least 30 minutes for a meal.

PROVISIONS APPLICABLE TO AGRICULTURE: The meal period requirement applies implicitly to agricultural workers and agricultural employers, to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 148 - 159

GENERAL SUMMARY: The state wage payment laws generally require that employees be paid weekly and prescribe certain other conditions regarding paydays and pay periods, compensation at termination, method of payment, and wage deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — Like their non-agricultural counterparts, farmworkers generally must be paid at least once a month, but regardless of the length of the pay period, employers must pay wages earned by each worker to within 6 days of the date of payment (or within 7 days in the case of a worker employed 7 days a week).

FINAL COMPENSATION — A worker who leaves his or her job must receive final pay in full on the next regular payday, or on the following Saturday if there is no regular payday. Whenever a worker is discharged by the employer, final wages must be paid in full on the day of discharge.

PAY STATEMENTS — Each time wages are paid, employers are required to furnish their employees with a written statement showing the name of the employer, the name of the employee, the date, the number of hours worked, the hourly pay rate, and the amount of any deductions from pay.

METHOD OF PAYMENT — An employer who pays wages by check or draft must provide facilities or make arrangements for the cashing of payroll checks at a bank or elsewhere, without charge or discount.

DEDUCTIONS — Each time an employer makes a deduction from the wages of any worker for Social Security, health insurance, or any other benefit, the employer must give the worker a written statement showing the amount and nature of each such deduction at the time of payment. Employers are forbidden from penalizing a laborer for tardiness by deducting from wages a sum in excess of the proportionate wage which would have been earned during the time actually lost.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). The Department is authorized to prosecute any violation of the wage payment provisions. Violators are subject to a criminal fine, imprisonment, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465).

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of the wage payment laws may, 90 days after filing a complaint with the Attorney General and within 3 years after the violation, take action in civil court against the employer directly, using a private attorney or public legal service provider.

→ STATE INCOME TAX LAWS (WITHHOLDING OF TAXES ON WAGES)

STATUTORY CITATION: Mass. Gen. Laws Ch. 62B, §§ 1 – 15

GENERAL SUMMARY: Every employer in Massachusetts who makes any payment of wages subject to federal income tax withholding under the Internal Revenue Code must deduct and withhold state income taxes on such wages also, and forward the sums withheld to the state for credit against the wage earners' state tax liability.

On or before January 31 of the following year — or, if an employee's job ends before the close of the tax year, within 30 days from the last payment of wages — the employer is required to provide each employee with a written statement in duplicate showing the name of the employer, the name and Social Security number of the employee, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Massachusetts must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Massachusetts Department of Revenue, Boston, Massachusetts 02204 (617-887-6367; toll-free 800-392-6089).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

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Michigan

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CHILD LABOR

■ YOUTH EMPLOYMENT STANDARDS ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 409.101 - 409.124

RELATED REGULATIONS: Mich. Admin. Code R. 408.6199 - 408.6309

GENERAL SUMMARY: The Youth Employment Standards Act regulates the employment of workers under the age of 18 in Michigan, by establishing minimum age, maximum hours, and other criteria applicable to most industries and occupations in the state.

MINIMUM AGE — Subject to certain exceptions, the minimum age for employment of minors is 14 years.

HOURS LIMITATIONS —

Minors Under Age 16 — A minor under 16 years of age may not be employed in an occupation subject to the Act for more than 6 days in one week, for a period longer than a weekly average of 8 hours per day or 48 hours in one week, or for more than 10 hours in one day. Youth under 16 are not permitted to be employed between the hours of 9:00 p.m. and 7:00 a.m. During the period when school is in session, a minor who is a student in school may not be employed for more than a combined school and work week of 48 hours.

Minors 16 and Over — No one may employ a minor 16 years of age or older in an occupation subject to the Act for more than 6 days in one week, for more than an average of 8 hours per day in one week, for more than 10 hours in one day, or for more than 48 hours in one week; when school is in session, a minor who is a student in school may not be employed for more than 24 hours in one week. Employment of minors 16 years of age or older is generally prohibited between the hours of 10:30 p.m. and 6:00 a.m., but 16- and 17-year-old students may work until 11:30 p.m. on Fridays and Saturdays, during school vacation periods, and during periods when they are not regularly enrolled in school.

WORK PERMITS — A minor may not be employed in an occupation regulated by the Act unless the minor (1) has obtained a permit from the school district in which the minor's place of employment is located, or from the public school academy or non-public school nearest the place of employment, and (2) provides a copy of the permit to the prospective employer, who must keep it on file at the place of employment throughout the duration of employment.

MEAL AND REST PERIODS — A minor may not be employed for more than 5 hours continuously without an interval of at least 30 minutes for a meal and rest period. An interval of less than 30 minutes is not considered to interrupt a continuous period of work.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EXEMPTION — As long as employment takes place outside school hours and is not in violation of regulatory standards adopted by the superintendent of public instruction, the Youth Employment Standards Act *does not apply* to farmwork. Currently, the only agriculturally related activities identified in the superintendent's administrative rules as hazardous, and thus generally closed to minors under the age of 18, are work involving hazardous substances (which may include pesticides), operation of high-power tractors, and work requiring the use of ladders.

EXCEPTIONS TO THE AGRICULTURAL EXEMPTION — The Act imposes restrictions on the employment of minors in detasseling, roguing, hoeing, and any similar farming operations involved in the production of seed.

Days and Hours of Employment — With parental consent and only outside school hours (or when not enrolled in school), minors 16 years of age or older may be employed in these operations for up to 11 hours in one day and up to 62 hours in any one week. An employer may not require work in excess of 48 hours a week without the minor's consent. Work cannot take place between 2:00 a.m. and 5:30 a.m.

Without parental consent, 16- and 17-year-olds may work in these operations only outside school hours (or when not enrolled in school), for up to 6 days in one week, no more than an average of 8 hours per day in one week, no more than 10 hours in one day per week, and no more than 48 hours per week when school is out for 7 consecutive days or more. Work cannot take place between 11:30 p.m. and 6:00 a.m.

Work Permits — As long as the employment occurs during school vacation periods, or when the worker is not regularly enrolled in school, minors 13 years of age and older may work in such operations without first obtaining a work permit.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Career and Technical Education, Michigan Department of Education, Lansing, Michigan 48909 (517-335-6041).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

REVISED SCHOOL CODE (COMPULSORY SCHOOL ATTENDANCE)

STATUTORY CITATION: Mich. Comp. Laws §§ 380.1561 - 380.1599

GENERAL SUMMARY: With some exceptions, every parent, guardian or other person in Michigan having control or charge of a child from the age of 6 to the child's 16th birthday must send the child to a public school, or to a state-approved non-public school or home school that provides comparable instruction, during the entire school year.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory education provisions apply uniformly to children in the affected age group, with no exception for agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school attendance officers and other local school personnel. If a parent or guardian fails to send a child to school as required, the attendance officer, on receiving notice of that fact from proper authority, must give written notice to the party responsible for the child's attendance, requiring the child to appear. Failure to comply with such a notice may result in a formal legal complaint against the responsible party. A violation is punishable by a fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of Career and Technical Education, Michigan Department of Education, Lansing, Michigan 48909 (517-335-6041).

◎ STATE LABOR LAWS (WORK AWAY FROM HOME LOCALITY)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.581 – 408.583

GENERAL SUMMARY: It is unlawful for any person or firm to offer inducements (including the promise of wages or other valuable consideration) to any child under 16 years of age to leave home for purposes of employment, without the prior written consent of the child's parents and the consent of the school attendance officer or comparable official at the home location. If such consent is obtained and the child accepts the recruitment offer, the child must be returned home safely upon the written request of his or her parents.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural and non-agricultural employment without distinction.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

ELLIOTT-LARSEN CIVIL RIGHTS ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 37.2101 – 37.2804

GENERAL SUMMARY: Among other proscriptions, the Elliott-Larsen Civil Rights Act prohibits discrimination on the job because of religion, race, color, national origin, age, sex, height, weight, or marital status. The employment discrimination provisions apply to every agricultural and non-agricultural employer with one or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is illegal for an employer to engage in any of the following practices:

- (1) To refuse to recruit or hire, to discharge, or to discriminate in any other manner against an individual with respect to employment, compensation, or a term, condition or privilege of employment, on the basis of religion, race, color, national origin, age, sex, height, weight, or marital status.
- (2) To limit, segregate or classify an employee or job applicant on any such grounds in a way which tends to deprive the person of a job opportunity or otherwise adversely affect employment.
- (3) To segregate, classify or otherwise discriminate against a person on the basis of sex with respect to a term, condition or privilege of employment, including an employee benefit plan.

(4) To publish or circulate any advertisement or other employment-related notice, or use any job application form, which indicates a preference, limitation or specification based on religion, race, color, national origin, age, sex, height, weight, or marital status.

Employers are also forbidden from requesting information, or making any record, regarding the arrest or detention of a job applicant or employee which did not result in a conviction.

Comparable discriminatory acts committed by employment agencies and labor organizations are similarly prohibited.

EXCEPTION — Where religion, national origin, age, height, weight or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, an employer, employment agency or labor organization may use such a qualification, but if an exemption is not obtained in advance from the state enforcement agency, the burden of establishing the necessity of the qualification is on the employer, employment agency or labor organization which uses it.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Department of Civil Rights, Lansing, Michigan 48933 (517-335-3165; toll-free 800-482-3604). The Act places the Department in charge of receiving, investigating, holding hearings on, and resolving complaints alleging violations. Upon the filing of a complaint, the Department must conduct an initial investigation, then either dismiss the complaint or attempt to eliminate the discriminatory practice or act determined to have been committed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Michigan Civil Rights Commission, Lansing, Michigan 48933 (517-335-3165; toll-free 800-482-3604).* Failure by the Department of Civil Rights to resolve a violation through conciliation will lead to a formal charge by the Department against the violator. The Civil Rights Commission, after a hearing on the charge, must either dismiss it or issue a final order requiring the respondent to cease and desist and to take appropriate corrective action.

PRIVATE CIVIL ACTION — Concurrently with any administrative enforcement action, a worker may bring suit against the alleged violator directly, through legal counsel of the complainant's own choosing. Civil action for injunctive relief and damages may be brought in the circuit court for the county where the alleged violation occurred, or where the person or firm against whom the complaint is filed resides or has its primary place of business.

₩ORKFORCE OPPORTUNITY WAGE ACT (EQUAL PAY)

STATUTORY CITATION: Mich. Comp. Laws § 408.423

GENERAL SUMMARY: In general, any Michigan employer who (1) has 2 or more employees, and (2) is not subject to the minimum wage provisions of the federal Fair Labor Standards Act, may not discriminate on the basis of sex by paying wages to workers at a rate less than the rate at which workers of the opposite sex are paid in the same establishment for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. This does not preclude use of wage differentials tied to factors other than sex, including seniority, merit, and quantity or quality of production.

PROVISIONS APPLICABLE TO AGRICULTURE: Because this law does not apply to employees who are not covered by the FLSA minimum wage provisions, farmworkers are protected by the equal pay protection in the Workforce Opportunity Wage Act only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). For enforcement purposes, any amount to which a worker is entitled because of sex-related discrimination is treated as unpaid minimum wages. At any time within 3 years after a minimum wage violation, the worker may file a claim with the Department. If the Department's investigation finds reasonable cause to believe the employer has violated the law and the Department is unable to obtain voluntary compliance within a reasonable time, the agency must take action in court to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Subject to the same 3-year time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 15.361 - 15.369

GENERAL SUMMARY: The Whistleblowers' Protection Act makes it unlawful for virtually any public or private employer in Michigan to fire, threaten or otherwise discriminate against an employee regarding the terms and conditions of the job, on grounds that the employee or a person acting on the employee's behalf reported or plans to report a suspected violation of federal, state or local law to a public agency or officer. Employers are also prohibited from discriminating against an employee because he or she is requested by a public agency or court of law to participate in an investigation, hearing or inquiry conducted by that agency or court.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act protects farmworkers, and applies to farm employers, to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — As noted below, this law is enforced in civil court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A person who alleges a violation of the Whistleblowers' Protection Act may bring civil action against the employer involved, using a private attorney or public legal service provider. Any such action must be filed within 90 days after the occurrence of the alleged violation. If the charge is sustained, the court may order the worker's reinstatement, payment of back wages, actual damages, and other appropriate relief, plus court costs and reasonable attorney's fees.

HUMAN TRAFFICKING NOTIFICATION ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 752.1031 – 752.1040

GENERAL SUMMARY: Michigan's Human Trafficking Notification Act requires posting of certain notices relating to human trafficking, which explicitly includes compelling someone to perform farmwork against his or her will.

SPECIFIC TERMS AND CONDITIONS: The state transportation department is required to post a human trafficking notice conspicuously at each rest stop and welcome facility in Michigan, and each local unit of government that operates such a facility or that provides bus or rail transportation services to the public must also post the notice. The notice must meet prescribed size and readability standards, be of durable construction, and be posted in English, Spanish and any other language determined appropriate by the state enforcement agency. The notice must read as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave, whether the activity is commercial sex, housework, farm work, or any other activity, please contact the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text 233733 to access help and services. The victims of human trafficking are protected under U.S. laws and the laws of this state."

PRIMARY ENFORCEMENT AGENCY — Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). Copies of the human trafficking poster — in English and Spanish — can be downloaded from the Department's website (http://www.michigan.gov/lara; search for "Trafficking") or sent by mail upon request.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Michigan Department of Transportation, Lansing, Michigan 48909 (517-373-2090). This agency is responsible for posting the human trafficking notice at state rest stops and welcome facilities.

HEALTH AND SAFETY

■ MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.45101 and 408.45301

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act imposes a duty on employers in the state to furnish their employees with a job and workplace free from recognized hazards that could cause death or serious injury, and to comply with the specific safety and health standards adopted under the Act's rulemaking authority and applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Michigan's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). MIOSHA is responsible for administering and enforcing the provisions of the Act relative to occupational safety. Representatives of the agency may enter any workplace in the state to inspect conditions, equipment and materials, and to question the employer and workers regarding safety issues. In investigating a complaint or suspected violation, MIOSHA may compel testimony by witnesses and the production of evidence. Employers found to have violated the Act or a specific occupational safety rule will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: Mich. Comp. Laws § 408.1014n

RELATED REGULATIONS: Mich. Admin. Code R. 408.45501 - 408.45502

GENERAL SUMMARY: In addition to authorizing the state administering agency to adopt safety and health standards with respect to any industry or occupation in the state, the Michigan Occupational Safety and Health Act contains explicit language affirming the right of farmworkers to potable water and to toilet and handwashing facilities in the field.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Agricultural employers must provide potable water to their employees in the field, at no cost to the workers. The standards for the provision of drinking water are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but apply to all agricultural employers in Michigan.

TOILET AND HANDWASHING FACILITIES — The Act requires agricultural employers with 11 or more workers on a given day to provide toilets and handwashing facilities to the workers in accordance with the federal OSHA field sanitation standard (U.S. — Health & Safety — Agricultural Field Sanitation). Employers with fewer than 11 workers must either provide their field workers with comparable facilities themselves, or make such facilities available to them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). Representatives of MIOSHA may enter any workplace in the state to inspect conditions, equipment and materials, and to question the employer and workers regarding occupational health issues, including field sanitation. In investigating a complaint or suspected violation, the agency may compel testimony by witnesses and the production of evidence. Employers found to have violated the Act or a specific occupational safety rule will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 325.51131 – 325.51142

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Michigan's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). In response to a complaint or on its own initiative, MIOSHA representatives may enter any public or private property in the state to inspect a temporary labor camp or determine if such a facility is in operation. Employers found to have violated any aspect of the labor camp standards will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ PUBLIC HEALTH CODE (AGRICULTURAL LABOR CAMPS)

STATUTORY CITATION: Mich. Comp. Laws §§ 333.12401 – 333.12434

RELATED REGULATIONS: Mich. Admin. Code R. 325.3601 - 325.3699

GENERAL SUMMARY: The Public Health Code includes provisions covering the licensing and operation of agricultural labor camps in Michigan.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may operate an agricultural labor camp, or allow such a facility to be occupied, without a valid license, posted conspicuously on the premises to which it applies. An agricultural labor camp is defined as a tract of land and all buildings, vehicles, tents and other structures pertaining thereto, any part of which is established or used as living quarters for 5 or more migratory laborers engaged in agricultural activities, including related food processing.

APPLICATION AND INSPECTION — An application for a license to operate an agricultural labor camp must be submitted at least 30 days prior to occupancy. A license will generally be issued if, after investigation and a pre-occupancy inspection, the facility is found to conform to the minimum standards outlined below.

MINIMUM STANDARDS — The state enforcement agency has adopted detailed rules for the protection of the health, safety and welfare of agricultural labor camp residents. A few of the major requirements are highlighted here:

Housing Site — The site must be well-drained and not in proximity to offensive odors, flies, noise, traffic, and other health and safety hazards.

Water Supply — An adequate and convenient supply of water which meets state quality standards must be provided, either in each shelter or through a cold water outlet within 50 feet of each shelter. Common drinking cups are not permitted.

Construction, Space and Sleeping Accommodations — Shelters must be structurally sound, be in sanitary condition, and offer effective protection against the elements. Living areas must comply with prescribed minimum floor space and ceiling height standards. Separate sleeping accommodations for each sex or each family are required. A bed, cot or bunk, supplied with a clean mattress, must be provided for each occupant. Any bedding provided by the camp operator must be clean and sanitary.

Fire Safety and First Aid — Living and sleeping areas above a second floor are not allowed. Sleeping rooms must have at least 2 remotely separated doors or other means of escape. Fire extinguishers must be provided and located not more than 100 feet from each shelter. There must be a functioning smoke detector at prescribed locations in each shelter. No flammable materials (other than those needed for current household use) may be stored in or around rooms used for living purposes, and agricultural pesticides and toxic chemicals may not be stored in the housing area.

Ventilation, Lighting and Electricity — Each shelter must have adequate ventilation and natural lighting. Outside openings that are used for ventilation must be properly screened, and screen doors must be self-closing. All housing sites must have electric service that meets the national electrical code.

Heating — A shelter that is occupied after September 1 and before May 31 must be provided with properly installed, functioning heating equipment capable of maintaining a temperature of at least 65 degrees F. Portable heaters other than those powered by electricity are forbidden, and any stoves or other heating devices that use combustible fuel must be safely installed and properly vented.

Cooking, Eating and Refrigeration Facilities — Camps must have safe, sanitary cooking and eating facilities. In individual living units and in common living areas, there must be cook stoves, refrigeration, food storage and preparation space, adequate lighting and ventilation, and seating and eating arrangements that meet standards prescribed in the regulations.

Bathing, Handwashing and Laundry Facilities — Adequate bathing and handwashing facilities, supplied with hot and cold water under pressure, must be provided in prescribed minimum numbers and located within 200 feet of each living unit. Occupants must also have access to prescribed laundry facilities, supplied with hot and cold water.

Toilet Facilities — In general, there must be no less than one toilet for every 15 occupants, and all such facilities must be constructed, located and maintained so as to prevent any nuisance or public health hazard. Except in individual family units, separate toilet accommodations for men and women are required. Toilet facilities must be located within 200 feet of each shelter, but privies may be no closer than 50 feet from any living, cooking or eating area.

Sewage, Garbage and Refuse Disposal — Sewage must be discharged into a public sewer system, where available, or into a sewage disposal system approved by state or local authorities. Camp operators must provide covered, fly-proof containers for the storage of garbage and other refuse, and refuse must be collected at least once a week or more often if necessary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Stewardship Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5621). The Department is responsible for inspecting agricultural housing facilities in the state, issuing licenses to those that meet minimum standards, and monitoring continued compliance with those standards. Anyone may report a violation or suspected violation to the Department, which must investigate the complaint. The Department is authorized to suspend or revoke the camp operator's license if a violation is confirmed. The statute also makes operating a camp without a license or in violation of the Department's rules a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state agency may utilize the services of local health departments to conduct pre-licensing camp inspections and investigations of complaints or violations.

INSURANCE AND COMPENSATION

→ MICHIGAN EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 421.1 - 421.75

GENERAL SUMMARY: The Michigan Employment Security Act establishes an unemployment compensation fund, into which most employers in the state are required to pay contributions roughly proportional to the amount of covered wages paid, and from which weekly cash benefits are paid to temporarily unemployed workers who have sufficient earnings from covered employment and meet other eligibility criteria.

With some exceptions, employers are required to pay contributions to the UI fund if they (1) have at least one employee in each of 20 different calendar weeks in the calendar year, or (2) pay wages totaling \$1,000 or more within the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other employing unit which (1) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers for agricultural services, or (2) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural services, must pay contributions to the state unemployment compensation fund. Normally, only the first \$9,500 in wages paid to each worker during the calendar year is counted in computing the amount of the employer's unemployment insurance tax liability.

ELIGIBILITY FOR BENEFITS — A farmworker or other unemployed individual not otherwise disqualified is generally eligible to receive UI benefits if the state administering agency finds that the worker (1) has registered for work, is seeking work, and has continued to report to the state employment office, (2) has made a claim for benefits, (3) is able and available to perform suitable full-time work, (4) has, during the first four of the last five calendar quarters immediately preceding the filing of a claim, earned wages totaling not less than 1.5 times the wages earned during the one quarter when earnings were highest, and (5) earned wages in 2 or more quarters totaling at least 20 times the state average weekly wage.

AMOUNT OF BENEFITS — In general, the weekly benefit rate for an eligible claimant is equal to 4.1 percent of the claimant's high-quarter earnings, as explained above, plus \$6 for each of the claimant's dependents up to 5, but in no case may the weekly benefit exceed \$362. With respect to a week of total unemployment, the individual is entitled to receive the full weekly benefit rate; in any week of partial unemployment, the full weekly benefit amount is reduced by 50 cents for each whole dollar of earnings.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Unemployment Insurance Agency, Detroit, Michigan 48202 (616-356-0038). This agency administers the state unemployment insurance system and hence is responsible for determining the liability of employers for UI contributions, collecting contributions from subject employers, determining the eligibility of claimants for UI benefits, and making UI payments. Claims by unemployed workers may be filed online, at www.michigan.gov/uia/, or by phone, at 866-500-0017.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKER'S DISABILITY COMPENSATION ACT OF 1969

STATUTORY CITATION: Mich. Comp. Laws §§ 418.101 - 418.941

GENERAL SUMMARY: The Worker's Disability Compensation Act provides generally that an employee who receives a personal injury (including a disabling occupational disease) in the course of employment with an employer subject to the Act must be paid compensation. Among the benefits to which covered employees are entitled are (1) weekly wage-loss payments, (2) medical, surgical and hospital services, medicines, and related medical care, (3) vocational rehabilitation services, and (4) death benefits.

With some exceptions, every Michigan employer who regularly employs 3 or more workers at one time is required to secure the payment of compensation by (1) obtaining authorization from the state as a self-insurer or part of a self-insurance group, which may involve the posting of a surety bond or other security, or (2) purchasing a workers' compensation insurance policy from a commercial insurer. An employer who fails to comply with the obligation to secure compensation under one of these two options is subject to a \$1,000 fine, a jail sentence of up to 6 months, or both, each day's failure being a separate offense. Moreover, an injured worker whose employer has not secured workers' compensation coverage is entitled to recover damages from the employer in a civil action, and the employer may not plead as a defense in any such action that the worker's injury was due to the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risks inherent in the employment.

PROVISIONS APPLICABLE TO AGRICULTURE

FULL COVERAGE — A farm operator or other agricultural establishment which has 3 or more regular workers who (1) are paid hourly wages or salaries, but not on a piecework basis, and (2) worked for the employer at least 35 hours a week for 13 or more consecutive weeks during the preceding 52 weeks, is subject to all provisions of the Worker's Disability Compensation Act, but coverage applies only to such regularly employed workers.

PARTIAL COVERAGE — All agricultural employers who employ at least one worker for 35 or more hours a week for at least 5 consecutive weeks must provide such workers with medical and hospital coverage (including medical, surgical and hospital services, medicines, and related medical care) for job-connected personal injuries. Such workers are not, however, entitled to weekly wage-loss payments, vocational rehabilitation services, or the other benefits payable to eligible employees fully covered under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Agency, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (toll-free 888-396-5041). This agency is responsible for assuring compliance with the employer's obligation to provide compensation, and for resolving disputes regarding eligibility for and payment of workers' compensation benefits. A worker who is injured on the job, or disabled by an illness that was caused or aggravated by conditions at the workplace, should notify the employer as soon after the accident or onset of disability as possible. In general, compensation is due and payable on the 14th day after the employer receives such notice. Any disagreement over the compensability of an injury or disability, or any dispute concerning the continuation of benefits, should be reported to the agency for investigation and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

STATE AGRICULTURE LAWS (EMIGRANT AGENTS)

STATUTORY CITATION: Mich. Comp. Laws §§ 286.651 - 286.657

GENERAL SUMMARY: Chapter 286 of the state statutes includes provisions requiring the licensing and regulation of emigrant agents, defined as persons engaged in recruiting, hiring, soliciting or enticing laborers in Michigan to work in farm labor outside the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, no one may operate as an emigrant agent without first having obtained an annual license from the state to do so. An application for an emigrant agent's license must be accompanied by a \$75 license fee and a \$2,000 surety bond, payable to the state and conditioned on compliance with provisions applicable to the licensee's operations as an emigrant agent. A licensed agent must carry the license at all times while engaged in labor recruitment activities.

REPORTING — Every licensed emigrant agent is required to submit a report to the state enforcement agency covering each week in which the agent conducts recruitment activity in the state. The report must include (1) identifying information on each worker recruited for employment outside the state, (2) the name and address of the prospective employer of each such worker, (3) the type of work to be performed, (4) the place each worker will be employed, (5) the expected duration of employment, (6) the wages to be paid and benefits to be provided, and (7) a statement as to whether or not transportation is to be arranged for the worker, upon either leaving or returning to Michigan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-1820). The Department is responsible for licensing of emigrant agents operating in Michigan, and for monitoring the business activities of licensees. The law prescribes a penalty only for operation as an emigrant agent without a license, which is defined as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE LABOR LAWS (WORK AWAY FROM HOME LOCALITY)

STATUTORY CITATION: Mich. Comp. Laws §§ 480.581 - 480.583

GENERAL SUMMARY: Any person or firm that recruits a worker to perform services away from the worker's home location, through promise of wages or other valuable consideration, must provide the worker with a written statement specifying the terms and conditions of the job, the wage rates to be paid, and how, when and where such wages will be paid. In offering inducements to a worker for employment away from home, anyone who misrepresents any of these conditions is liable to the affected worker for the full amount of the damages suffered.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to employment in any industry and any occupation in the state, implicitly including agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Through private legal counsel or a public legal service provider, a worker may recover damages resulting from a violation of these provisions by filing a civil suit against the offending party.

WAGE PAYMENT LAWS (EMPLOYMENT FEES)

STATUTORY CITATION: Mich. Comp. Laws § 408.478

GENERAL SUMMARY: The state wage payment laws include a provision prohibiting employers from charging employees certain employment-related fees. The wage payment laws apply equally to agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS: An employer, or an agent of the employer (including a crew leader or labor contractor) having authority to hire or direct the services of the employer's workers, may not demand or receive a fee or other remuneration from a worker, directly or indirectly, as a condition of employment or continuation of employment, unless the person exacting the fee is licensed in Michigan as a personnel agent or agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). This agency is responsible for enforcing compliance with the wage payment laws, including the employment fee provision summarized above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Licensing Division, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-8068). This agency handles the licensing of personnel agencies and monitoring of their business activities.

PESTICIDES AND AGRICULTURAL CHEMICALS

● NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (PESTICIDE CONTROL)

STATUTORY CITATION: Mich. Comp. Laws §§ 324.8301 - 324.8336

RELATED REGULATIONS: Mich. Admin. Code R. 285.636.1 - 285.636.17 and 285.637.1 - 285.637.17

GENERAL SUMMARY: Part 83 of the Natural Resources and Environmental Protection Act regulates the distribution, sale and use of pesticides in Michigan, in part by requiring the certification of applicators, defining numerous mandatory practices and unlawful acts involving pesticide compounds, and authorizing adoption by the state agriculture department of more explicit pesticide control measures.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply general- or restricted-use pesticides without being certified by the state as competent to do so safely. Certification of commercial applicators requires the applicant to complete a written examination designed to test the applicant's knowledge of the hazards posed by pesticides and safe handling and application practices. A private applicator intending to use any restricted-use pesticide product for agricultural purposes must also obtain a certificate, a prerequisite for which includes completion of either (1) a course of self-directed study and an examination, (2) classroom training and an examination, or (3) an oral fact-finding interview conducted by the state enforcement agency.

APPLICATOR QUALIFICATIONS — Commercial applicators are required to have either (1) a baccalaureate degree from a recognized college or university in a discipline relevant to pest control and at least one season of service as an employee of a commercial applicator, or (2) at least 2 seasons of experience as an employee of a commercial applicator.

FINANCIAL RESPONSIBILITY — Licensed commercial applicators are required to maintain liability insurance for bodily injury and property damage arising from pesticide applications. In general, minimum coverage for each occurrence must be no less than \$100,000 for bodily injury and \$25,000 for property damage. Policies written for aerial applicators may have a combined single limit of \$300,000.

RECORDKEEPING — Commercial applicators must maintain a record of each application of restricted-use pesticides for not less than 3 years from the date of application and must make those records available to the state agency on request. The record must show the name and amount of the pesticide used, the purpose of the application, the date and place where the material was applied, and the method and rate of application. Similar records on each use of a general-use pesticide must be maintained for at least one year.

STANDARDS FOR PESTICIDE USE — Among many other regulatory requirements, (1) no pesticide may be used in a manner inconsistent with its label, (2) applications must be made in a manner that prevents off-target discharges, (3) application equipment must be in sound mechanical condition, properly calibrated and equipped with shut-off valves, and (4) applications must not occur when weather conditions would result in off-target drift.

PERSONAL PROTECTIVE EQUIPMENT — Commercial applicators must follow pesticide label directions regarding use of personal protective equipment, and must follow state-prescribed requirements for the use of protective clothing, footwear and gloves.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939). The Department is responsible for certification of pesticide applicators and licensing of commercial pesticide application businesses. In addition, representatives of the Department are authorized to enter public and private property where pesticides are used, to inspect pesticide application equipment, to observe pesticide applications, and to obtain samples. The Department has the power to order any applicator to cease the use of a pesticide when it appears the product is being or has been used unsafely or in contravention of the law, to order cessation of any other prohibited conduct, and to impose civil money penalties for violations. Violations are also punishable as misdemeanor offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (AERIAL PESTICIDE APPLICATORS)

STATUTORY CITATION: Mich. Comp. Laws § 324.8315

RELATED REGULATIONS: Mich. Admin. Code R. 285.636.1 - 285.636.17 and 285.637.1 - 285.637.17

GENERAL SUMMARY: In addition to the general standards and requirements outlined in the previous entry, Part 83 of the Natural Resources and Environmental Protection Act includes explicit provisions regulating the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

Before engaging in the aerial application of pesticides, a private agricultural or commercial applicator must meet at least one of these requirements: (1) have at least 3 years of experience, with not fewer than 200 hours of agricultural aerial application under the supervision of a commercial aerial applicator, (2) be licensed as a commercial aerial applicator before December 27, 1988, or (3) successfully complete a state-recognized aerial applicator training program.

In addition, once every 3 years, every aerial applicator must either (1) participate in a state-approved application flight-efficiency clinic, using an aircraft that the applicator operates, or (2) retake the certification examinations and submit to an inspection by the enforcement agency of the applicator's aircraft, equipment and spray operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 – 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.19201 - 408.19204

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Michigan's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). In response to a complaint or on its own initiative, MIOSHA representatives may enter any public or private property in the state to enforce the hazard communication standard. Employers found to have violated any aspect of the standard will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.45501 – 408.45502

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Michigan's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). In response to a complaint or on its own initiative, MIOSHA staff may enter any public or private property in the state to enforce the anhydrous ammonia standard. Employers found to have violated any aspect of the standard will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

■ STATE AGRICULTURE LAWS (TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS)

STATUTORY CITATION: Mich. Comp. Laws §§ 286.601 - 286.602

GENERAL SUMMARY: Chapter 286 of the state agriculture statutes requires the state administering agency to adopt rules establishing minimum health and safety requirements for motor vehicles used to transport migrant agricultural workers to and from agricultural employment. The rules must include specific standards applicable to motor vehicle equipment, accessories and devices, and impose requirements on the drivers of such vehicles.

SPECIFIC TERMS AND CONDITIONS: In lieu of promulgating its own safety standards, Michigan has adopted the federal motor carrier safety regulations applicable to the transportation of agricultural workers (see entry, U.S. — Transportation — Farmworker Transportation Safety). The federal standards are consistent with the state statutory language summarized above and generally apply to individuals, employers and other entities that transport 3 or more migrant agricultural workers at a time to or from their employment on a trip of at least 75 miles.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Commercial Vehicle Enforcement Division, Michigan State Police, Dimondale, Michigan 48821 (517-284-3250). Among other law enforcement functions, the Commercial Vehicle Enforcement Division conducts road patrol activities and operates scale facilities relevant to enforcement of the state motor carrier laws, including these provisions. This agency has authority to inspect vehicles used to transport migrant agricultural workers on any street or highway in Michigan, and may issue citations and make arrests for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

■ WORKFORCE OPPORTUNITY WAGE ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 408.411 – 408.424

RELATED REGULATIONS: Mich. Admin. Code R. 408.701 - 408.787

GENERAL SUMMARY: The Workforce Opportunity Wage Act generally forbids any Michigan employer who (1) has 2 or more employees, and (2) is not subject to the minimum wage provisions of the federal Fair Labor Standards Act, from paying wages at a rate less than \$8.90 an hour beginning January 1, 2017, and \$9.25 beginning January 1, 2018.

Beginning in January 2019 and every January thereafter, the state treasurer will adjust the minimum wage to reflect the average annual percentage change in the consumer price index, provided that an annual increase may not exceed 3.5 percent. The revised rate will take effect on April 1 each year.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE — Because this law *does not apply* to employees who are not covered by the FLSA minimum wage provisions, farmworkers are entitled to the state minimum wage only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Other Exceptions — The state minimum wage also does not apply to (1) local hand harvest laborers who commute daily from their permanent residence, are paid on a piece-rate basis in traditionally piece-rate occupations, and were engaged in agriculture less than 13 weeks during the preceding calendar year, and (2) non-local minors, 16 years of age or under, who are hand harvesters, paid on a piece-rate basis in traditionally piece-rate occupations, employed on the same farm as their parent, and paid the same piece rate as those over 16.

PIECE RATE WORKERS — Under rules adopted by the director of the state licensing and regulatory affairs department, the piecework wage scale applicable to the harvesting of fruits and vegetables must be equivalent to the state hourly minimum wage specified above. Thus, if the payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity, he or she must receive an amount not less than the hourly minimum wage.

PAY STATEMENTS AND POSTING — Every employer subject to the Workforce Opportunity Wage Act must furnish each worker with a statement of hours worked, wages paid and deductions for each pay period. Subject employers must also keep a summary of the Act, its regulations and orders conspicuously posted at the workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). At any time within 3 years after a minimum wage violation, the worker may file a claim with the Department. If the Department's investigation finds reasonable cause to believe the employer has violated the law and the Department is unable to obtain voluntary compliance within a reasonable time, the agency must take action in court to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Subject to the same 3-year time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.

○ WORKFORCE OPPORTUNITY WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.411 - 408.424

GENERAL SUMMARY: With certain exceptions, the Workforce Opportunity Wage Act entitles an employee who is covered by the federal minimum wage requirements to overtime compensation at no less than 1¹/₂ times the worker's regular rate of pay for all employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the Workforce Opportunity Wage Act do not apply to agricultural employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O STATE LABOR LAWS (LEGAL DAY'S WORK)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.401 - 408.405

GENERAL SUMMARY: Under most circumstances, 10 hours per day constitutes a legal day's work in Michigan. An employer who requires a covered worker to labor more than 10 hours a day is compelled to compensate the worker at the regular rate of pay for all such overtime service.

PROVISIONS APPLICABLE TO AGRICULTURE: The legal day's work provision does not apply to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — These provisions are enforceable only in the civil courts.

WAGE PAYMENT LAW

STATUTORY CITATION: Mich. Comp. Laws §§ 408.471 - 408.490

RELATED REGULATIONS: Mich. Admin. Code R. 408.9002 – 408.9036

GENERAL SUMMARY: The state wage payment law includes provisions governing pay periods, final compensation, method of payment, wage deductions, bonuses, employment fees, payroll records, and pay statements. These provisions apply to all non-federal employment, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS —

Farm and Non-Farm Employment in General — As a rule, employers must pay their employees bi-monthly, with wages earned during the first half of the calendar month paid on or before the first day of the succeeding calendar month, and wages earned during the second half of the month paid by the 15th of the month following. Regularly scheduled weekly pay periods are allowable, provided each wage payment occurs within 14 days of the end of the week in which the wages were earned. Likewise, an employer may establish a monthly pay period, as long as wages earned during the month are paid on or before the first day of the following month.

Harvest Employment — With respect to workers involved in the hand-harvesting of crops, all wages earned in a particular week must be paid no later than the second day after the close of the workweek.

FINAL COMPENSATION — Except for hand-harvest crop workers, farm and non-farm employees who voluntarily terminate their employment must receive final pay on the regularly scheduled payday for the period in which the termination occurs; workers engaged in the hand-harvesting of crops must be paid within one working day after they quit. An employer who discharges an employee from the job, regardless of occupation, must pay final compensation as soon as the amount can be determined.

METHOD OF PAYMENT — Wages must be paid (1) in U.S. currency, (2) by check or draft payable without discount in U.S. currency, (3) by direct deposit to a financial institution selected by the employee, or (4) with a debit card that complies with state-prescribed standards. Employers may not require an employee to pay any fees or costs incurred by the employer in connection with wage payments.

DEDUCTIONS FROM WAGES — Except for deductions that are required or expressly permitted by law or a collective bargaining agreement, an employer may not make any deduction from wages without the worker's written consent, obtained without intimidation. The cumulative amount of non-mandatory deductions may not reduce wages paid to a rate less than the state or federal minimum wage, even in the case of a worker not covered by the minimum wage laws.

BONUSES — It is illegal for an employer to withhold any portion of a worker's pay in the guise of a fringe benefit or "bonus" to be paid at termination, unless the withholding arrangement is agreed to in a written agreement signed by the worker without intimidation.

EMPLOYMENT FEES — An employer, or an agent of the employer (including a crew leader or labor contractor) having authority to hire or direct the services of the employer's workers, may not demand or receive a fee or other remuneration from a worker, directly or indirectly, as a condition of employment or continuation of employment, unless the person exacting the fee is licensed in Michigan as an employment agency.

PAYROLL RECORDS — In general, every employer must keep a record on each worker, documenting the worker's name, address, birth date, occupation or job classification, pay rate, total hours worked in each pay period, total wages paid each pay period, deductions from pay, and fringe benefits provided. Such records must be preserved for at least 3 years.

PAY STATEMENTS — Employers must generally furnish each employee, at the time of payment, with a statement showing the hours worked, the gross wages paid, the pay period for which wages are being paid, itemized deductions, and, for hand-harvest pieceworkers, the total number of units harvested.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). An employee who believes that his or her employer has violated any of these provisions may file a written complaint with the Department within 12 months after the alleged violation. The Department must investigate the charges and attempt to resolve the dispute informally if it appears the claim has merit. Failing a settlement within 90 days of filing of the complaint, the agency must issue a formal determination, and a decision in the worker's favor may include an order for payment of the unpaid wages, damages and civil money penalties. Violators may also be prosecuted on criminal misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Subject to the same 12-month time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.

■ INCOME TAX ACT OF 1967

STATUTORY CITATION: Mich. Comp. Laws §§ 206.1 - 206.713

GENERAL SUMMARY: The Income Tax Act imposes a tax on the net income of Michigan residents and certain non-residents, a levy which extends to wages from employment and other compensation taxable under federal income tax provisions. The Act compels every employer who is required to withhold federal income tax from a worker's wages to deduct and withhold state income taxes from the worker's wages also, and to forward the amounts withheld to the state for credit against the worker's state income tax liability.

On or before January 31 of the following year — or within 30 days after the last payment of wages, in the case of a worker whose job ends before the end of the tax year — the employer is required to provide the worker with a written statement showing the worker's total wages and the amount of state income tax withheld during the calendar year being reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Michigan must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Discovery and Tax Enforcement, Tax Compliance Bureau, Michigan Department of Treasury, Lansing, Michigan 48922 (517-636-4486).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CITY INCOME TAX ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 141.501 - 141.787

GENERAL SUMMARY: The City Income Tax Act authorizes any Michigan city that either had an income tax in effect on January 1, 1995, or whose voters approved such a tax, to levy and collect an excise tax on certain income, including salaries, wages, commissions and bonuses which are (1) earned by residents of the city, or earned by non-residents for services performed in the city, and (2) subject to taxation under the Internal Revenue Code. Employers doing business or maintaining an establishment within any such city are required to withhold city income tax at the specified rate from the wages of any employee whose compensation is subject to federal income tax or FICA tax withholding.

On or before the last day of February following the calendar year in which such wages were paid, the employer must furnish the worker with a statement (such as a Form W-2) showing the total amount of compensation paid and the amount of city income taxes withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: With respect to an agricultural worker (1) who resides or is employed in a city with a local-option income tax and (2) whose wages are subject to FICA taxes, farm operators and other agricultural employers are generally required to withhold city income tax from the worker's wages each pay period and forward withheld taxes to the city quarterly, for credit against the worker's tax liability.

Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Michigan must also withhold city income tax from the wages of any employee who is a resident of a city with a local-option income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold local income tax as well if the worker is a resident of a city with a local-option income tax.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker is required to file a state income tax return if the worker's federal adjusted gross income exceeds personal exemptions. Tax may be owed if, after other state adjustments to federal adjusted gross income, the worker has net income.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Except for the City of Detroit, whose income tax is administered by the Michigan Department of Treasury, the City Income Tax Act is enforced by the individual municipalities that have adopted the local-option income tax. The governing body of each such city is required to appoint an income tax board of review, to which a worker may appeal an assessment of taxes, denial of a claim for refund, or other ruling made by the city's designated income tax administrator.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Discovery and Tax Enforcement, Tax Compliance Bureau, Michigan Department of Treasury, Lansing, Michigan 48922 (517-636-4486). A worker aggrieved by a determination of a local income tax board of review regarding an assessment of taxes, denial of a claim for refund, or other ruling may file an appeal with the Bureau of Revenue.

Minnesota

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Minnesota

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CHILD LABOR

CHILD LABOR STANDARDS ACT

STATUTORY CITATION: Minn. Stat. §§ 181A.01 - 181A.12

RELATED REGULATIONS: Minn. Admin. R. 5200.0900 - 5200.0970

GENERAL SUMMARY: With few exceptions, the Child Labor Standards Act establishes a minimum lawful employment age of 14, prescribes maximum hours and time-of-day restrictions for the employment of minors, and bans the employment of anyone under the age of 18 in certain hazardous occupations.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to the minimum age limit in other occupations, children as young as 12 years of age may be employed in agricultural operations, with the permission of their parents or guardian and subject to the limitations outlined below.

HOURS AND TIME-OF-DAY —

School Days — In general, no minor under the age of 16 may be employed in any occupation on school days during school hours.

Time-of-Day — Regardless of occupation, persons under 16 are not permitted to work before 7:00 a.m. or after 9:00 p.m.

Maximum Hours — The general rule against employing children under 16 for more than 40 hours a week, or more than 8 hours in any 24-hour period, *does not apply* to minors employed in agricultural activities with the permission of their parents or guardian.

HAZARDOUS OCCUPATIONS — No one under the age of 18 is allowed to work in any occupation determined by the state labor commissioner to be hazardous to minors. Among other prohibited activities often associated with farmwork which are closed to persons under 18 are work where chemicals are present in harmful or toxic quantities and operating power-driven machinery. The child labor regulations also forbid the employment of anyone under 16 in the operation of a farm tractor, as a motor vehicle driver, or in an agricultural operation declared hazardous by the U.S. Secretary of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). Authorized representatives of the Division may enter and inspect any place of employment in the state, interview employees, and inspect age and employment certificates, for the purpose of checking compliance with the state child labor laws. To correct a violation, the Division may issue an order requiring compliance, enforceable in the state courts, and may also impose administrative fines ranging from \$250 to \$5,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — To the same extent as representatives of the Department of Labor and Industry and for the same purposes, attendance officers or comparable local school district officials are authorized by the Act to visit workplaces, talk with employees, and inspect age and employment certificates.

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Minn. Stat. §§ 120A.20 - 120A.38

GENERAL SUMMARY: Every child between 7 and 17 years of age must attend a qualified public or private school during the entire time the school is in session during the school year, unless the child has graduated or is excused from attendance by the local school board. It is the responsibility of the parent to assure the child acquires the knowledge and skills essential for effective citizenship.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment-related exceptions to compulsory school attendance by children in the affected age range.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance laws are enforced by district school superintendents. Each superintendent is required to notify the parent, guardian or other person in charge of any child whose unexcused absence has been reported to the superintendent by a school attendance officer. If the child fails to attend following such notification, the superintendent must advise the county attorney of the facts of the case and file a criminal complaint against the party responsible for non-compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

MINNESOTA HUMAN RIGHTS ACT

STATUTORY CITATION: Minn. Stat. §§ 363A.01 - 363A.44

GENERAL SUMMARY: The Minnesota Human Rights Act outlaws unfair discriminatory practices in employment, as well as in other settings, and creates a state agency to receive and resolve complaints of violations. In general, the Act's employment provisions apply to every agricultural and non-agricultural employer with one or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Except when based on a bona fide occupational qualification, it is unlawful:

- (1) For an employer, because of race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, age, or membership or activity in a local human rights commission, (a) to refuse to hire a job applicant, (b) to maintain an employment system which excludes a person seeking employment, (c) to discharge an employee, or (d) to discriminate against a person with respect to hiring, tenure, compensation, or the terms, conditions, facilities or privileges of employment.
- (2) For an employer, before a person is hired, (a) to require the person to furnish information pertaining to race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, or age, except for national security or affirmative action purposes, or (b) to print or publish an employment-related notice or advertisement that discloses a preference, limitation, specification or discrimination based on race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, or age.

Comparable acts committed by employment agencies and labor organizations are also illegal.

COMPLAINTS — Anyone aggrieved by an apparently illegal act of employment discrimination may file a charge with the state enforcement agency, but to be considered timely, a charge must be filed within one year after the occurrence of the alleged violation. After the charge is sent to the respondent, the state agency may contact the parties to arrange for voluntary mediation, and if the matter is not settled through mediation, the agency will conduct a neutral investigation of the charge. The state agency generally has one year in which to determine whether or not there is probable cause to credit the allegation.

In the event the agency finds no probable cause, the complainant may appeal the decision within 10 calendar days. If the process results in a finding of probable cause, the agency will attempt to settle the matter through conciliation, but if the parties cannot agree on a settlement, the state attorney general may argue the case before an administrative law judge. A decision by the ALJ in favor of the complainant may result in an order against the employer for corrective action and civil money penalties, plus compensatory and punitive damages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Minnesota Department of Human Rights, St. Paul, Minnesota 55155 (651-539-1100; toll-free 800-657-3704). Among other functions, the Department is designated to receive and investigate charges alleging unfair discriminatory practices, and to attempt to resolve cases of confirmed discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In lieu of action through the state agency but subject to the same one-year time limitation, a charge of unlawful employment discrimination may be filed with a county, city or other local human rights commission created pursuant to law. Importantly, however, exercise of the worker's option to file a charge with one agency precludes filing the same charge with the other.

PRIVATE CIVIL ACTION — A worker who has suffered from an unlawful employment practice under the Act may bring suit seeking redress directly to district court, using a private attorney or public legal service provider. If the worker has filed a charge with the Department of Human Rights, private civil action may be filed only (a) within 45 days after receipt of a notice from the Department that the complaint has been dismissed, or (b) after 45 days from the filing of a charge if a hearing on the charge has not been held or a conciliation agreement has not been reached between the Department and the respondent.

EQUAL PAY FOR EQUAL WORK LAW

STATUTORY CITATION: Minn. Stat. §§ 181.66 – 181.71

GENERAL SUMMARY: The Equal Pay for Equal Work Law makes it illegal for an employer to discriminate between employees on the basis of sex, by paying wages to workers at a rate less than the rate at which the employer pays workers of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. Pay differentials are not regarded as discriminatory, however, where payment is made in accordance with a system based on seniority, merit, quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as non-agricultural coverage, the Equal Pay for Equal Work Law applies to every agricultural establishment employing one or more employees.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Violations of these provisions are regarded as misdemeanor offenses and are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has been paid discriminatory wages based on sex in violation of the equal pay law has a right of action against the employer involved, for recovery of the unpaid wages to which the worker is entitled for the one-year period preceding the filing of the suit, plus exemplary damages in an amount up to the amount of unpaid wages, at the court's discretion. To file suit, the worker should consult a private attorney or public legal service provider.

STATE LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: Minn. Stat. § 181.81

GENERAL SUMMARY: With only narrow exceptions, it is unlawful for any private-sector employer in Minnesota to refuse to hire a person who is under 70 years of age, or to discharge, retire or demote a person under 70, because of the person's age.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against age discrimination implicitly applies to agricultural employers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). The Department is responsible for advising workers and employers of their rights and duties under the age discrimination provision and is authorized to attempt through conciliation to resolve disputes involving job-related age discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker under the age of 70 who has suffered from an act of employment discrimination due to age may bring suit in district court, utilizing a private attorney or a public legal service provider. If a violation is found, the court may award reinstatement, back pay, or some other form of affirmative action, plus court costs and attorney's fees.

■ STATE LABOR LAWS (DISCLOSURE OF INFORMATION BY EMPLOYEES)

STATUTORY CITATION: Minn. Stat. §§ 181.931 - 181.935

GENERAL SUMMARY: With virtually no exceptions, public and private employers in Minnesota are prohibited from firing, disciplining, threatening or otherwise discriminating against an employee because the employee:

- (1) In good faith reports a suspected violation of federal or state law to the employer, to a governmental agency, or to a law enforcement official.
- Is requested by a public body or office to participate in an investigation, hearing or inquiry.
- (3) Refuses the employer's order to perform an action that the employee believes violates federal or state law, and informs the employer that the order is being refused for that reason.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to agricultural employers — and protects agricultural workers — to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may take civil action against the employer involved, using a private attorney or public legal service provider. If the complaint is sustained, the court may order the worker's reinstatement, back pay and other appropriate relief, as well as court costs and attorney's fees.

HEALTH AND SAFETY

○ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973

STATUTORY CITATION: Minn. Stat. §§ 182.65 - 182.676

RELATED REGULATIONS: Minn, Admin, R. 5205.0010

GENERAL SUMMARY: The state Occupational Safety and Health Act, in part, (1) defines the rights and duties of employers, including the responsibility for furnishing their employees with a job and workplace free from hazards that could cause serious injury or death, (2) defines the rights and duties of employees, including the right to refuse in good faith to work under conditions they believe present an imminent danger of serious harm or death, and (3) authorizes the adoption and enforcement of specific occupational safety and health standards. In general, the Act requires every employer with one or more employees to comply with all such standards that are applicable to their workplace or employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Minnesota's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742). Agents of the Department are authorized to inspect any workplace in the state and all structures, equipment and materials on the site, either at the request of a worker or on the agency's own initiative. Within 6 months of an inspection or investigation which reveals evidence of a violation of the Act or the associated standards, the Department may issue a written citation to the employer, describing the infraction and fixing a reasonable time for corrective action. Failure to respond to a citation or a subsequent final order may lead to court action to enforce compliance. The Department may assess civil money penalties for any violation of the Act, and willful or repeated violation is grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ STATE LABOR LAWS (WORKING CONDITIONS FOR CORN DETASSELERS)

STATUTORY CITATION: Minn. Stat. § 181.84

GENERAL SUMMARY: The state labor statutes include certain protections for workers employed to detassel corn in Minnesota, including a requirement for the provision of potable water in the fields.

SPECIFIC TERMS AND CONDITIONS: Every employer of corn detasselers in the state must provide the workers with an accessible supply of potable water in the field, along with cups or other sanitary drinking facilities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Because this section of the state labor laws does not include enforcement or penalty provisions, the only recourse for corn detasselers denied the benefit of drinking water at the job site is action against the employer in civil court, using a private attorney or public legal service provider. However, there appears to be no statutory right to sue under this law.

HOUSING

O DEPARTMENT OF HEALTH GENERAL LAWS (MIGRANT LABOR CAMPS)

STATUTORY CITATION: Minn. Stat. § 144.12

GENERAL SUMMARY: The statutory provisions governing the general operation of the Minnesota Department of Health grants the state health commissioner explicit authority to adopt rules for the construction, equipment and maintenance of migrant labor camps, and to require the licensing of such facilities.

SPECIFIC TERMS AND CONDITIONS: The state health department regulations that formerly contained licensing and inspection requirements and related housing standards applicable to migrant labor camps in Minnesota were repealed in 2005, as "out-of-date and in conflict with other state and federal laws."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ STATE LABOR LAWS (MIGRANT LABOR RECRUITMENT)

STATUTORY CITATION: Minn. Stat. §§ 181.85 - 181.91

GENERAL SUMMARY: The state labor statutes include protections for out-of-state migrant workers recruited for seasonal agricultural employment in Minnesota, including provisions related to housing.

SPECIFIC TERMS AND CONDITIONS

HOUSING DISCLOSURES — Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in any calendar year must, at the time of recruitment, furnish each worker with a bilingual statement indicating, among other things, whether or not housing will be provided. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

REQUIREMENT TO VACATE — A processor, as defined above, who recruits, employs and provides housing facilities to migrant workers, as defined above, may require any such worker to vacate the housing, but only after final payment of wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$500, plus court costs and attorney's fees.

INSURANCE AND COMPENSATION

MINNESOTA UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Minn. Stat. §§ 268.001 - 268.98

GENERAL SUMMARY: The Minnesota Unemployment Insurance Law establishes an unemployment insurance trust fund, compels most employers in the state to make contributions to the fund in proportion to the magnitude of their payroll, and authorizes the payment of cash benefits from the fund to temporarily jobless workers who have sufficient wage credits from covered employment and meet other eligibility criteria. Employers are generally required to pay contributions to the trust fund if they have had one or more employees during the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other establishment that (1) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 4 or more workers in agricultural labor, regardless of whether they were employed at the same time, or (2) during any calendar quarter of the current or preceding calendar year paid wages of \$20,000 or more for agricultural labor, is required to pay unemployment insurance taxes to the state. With respect to each worker on the payroll, a subject employer is generally liable for UI taxes equal to the employer's annually assigned tax rate, multiplied by the worker's wages through the calendar year up to a limit equal to 60 percent of the preceding year's statewide average annual wage among all UI-covered employees.

ELIGIBILITY FOR BENEFITS — An individual is generally eligible to receive benefits for any week of unemployment if the state agency finds that the person (1) has registered for work, (2) has made a claim for benefits, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters preceding the initial claim, earned total wages of at least 5.3 percent of the state's average annual wage.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is generally equal to the *higher* of (1) 50 percent of the applicant's average weekly wage during the four-quarter base period, up to a maximum of 66 ²/₃ percent of the state's average weekly wage, or (2) 50 percent of the applicant's weekly wage during the one quarter when wages were highest, up to a maximum of 43 percent of the state's average weekly wage. The actual amount of the UI benefit payment in any week is normally equal to the person's weekly benefit amount, minus that part of the week's part-time earnings, if any, in excess of 50 percent of the earnings.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Program, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota 55101 (651-296-3644; toll-free 877-898-9090). This agency is responsible for administration of the unemployment insurance program in the state, including tax liability determinations and appeals, tax collection, claims processing and appeals, and payment of benefits. Workers who are temporarily without employment and have worked for employers who have paid UI contributions on their behalf may file a claim for benefits online, at www1.uimn.org/ui_applicant/applicant/login.do.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Minn. Stat. §§ 176.001 - 176.862

GENERAL SUMMARY: The Minnesota workers' compensation law makes most employers in the state liable for compensation in every case of personal injury or death of an employee arising out of and in the course of employment, without regard to the question of negligence. Depending on the circumstances of each such case, compensation benefits may include, among others, (1) weekly cash payments to the employee in lieu of lost wages, (2) medical, surgical and hospital treatment, medicines, supplies and related items, and (3) death benefits. To meet their liability, subject employers must either purchase workers' compensation insurance coverage through a commercial insurance carrier, or obtain authorization from the state as a self-insurer. An employer who fails to secure the payment of compensation risks substantial monetary penalties.

With some exceptions, the obligation to provide compensation to their injured employees applies to anyone who employs another person to perform a service for hire.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworkers employed by a farm operator or other agricultural establishment which paid at least \$8,000 in cash wages for farm labor in the preceding calendar year are entitled to workers' compensation in the event of injury, disability or death sustained in the course of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5005; toll-free 800-342-5354). The Division is responsible for monitoring compliance with the workers' compensation law and for resolving disputes between workers, employers and insurance carriers regarding claims and benefits. In general, compensation must commence within 14 days of notice to the employer of a compensable injury. No benefits are due until the employer has actual knowledge of the occurrence of the injury or receives written notice of the incident from the worker or a dependent of the worker. Moreover, as a rule, an action or proceeding to determine or recover compensation must be initiated within 6 years of the date of the accident on which the claim is based.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE LABOR LAWS (HEALTH INSURANCE FOR MIGRANT LABOR)

STATUTORY CITATION: Minn. Stat. §§ 181.73 - 181.74

GENERAL SUMMARY: The state labor laws include a requirement that certain employers of migrant labor provide such workers with health care insurance during their term of employment.

SPECIFIC TERMS AND CONDITIONS

REQUIRED INSURANCE — Any person, company or group that employs 5 or more recruited migrant workers, as defined below, must provide at its expense state-prescribed health care insurance covering such workers during the period of employment, or for illness or injury incurred while employed.

COVERED WORKERS — Subject employers are required to insure those workers who meet all of the following conditions:

- (1) Are not residents of Minnesota.
- (2) Are employed, or were recruited for employment, in the processing of agricultural products other than as field labor.
- (3) Are offered some type of housing or transportation benefits by an employer as an employment inducement.
- (4) Do not have comparable health care insurance.

EXEMPTION — No such insurance need be purchased for any worker exclusively performing on-farm services, processing agricultural products on or off the farm in a plant where more than half the commodities being processed are grown by the employer, or engaging solely in other operations defined as "agricultural labor" in the Federal Insurance Contributions Act (26 USC 3121(g)).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Job Service Division, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota 55101 (651-259-7114; toll-free 800-657-3858). A migrant farmworker who is recruited for agricultural processing work and who has reason to believe he or she is not being provided the health insurance coverage required by these provisions should contact the Department, at any local WorkForce Center.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Minn. Stat. §§ 184.21 - 184.41

GENERAL SUMMARY: Chapter 184 of the Minnesota statutes regulates the operation of employment agencies in the state, implicitly including certain agricultural crew leaders and labor contractors.

SPECIFIC TERMS AND CONDITIONS

Every employment agent — defined as an individual, firm or other group that engages for profit or compensation in the business of furnishing workers with information or services enabling them to obtain employment, or furnishing anyone who is in the market for help of any kind with information enabling the employer to obtain workers — must enter into a written contract with each worker to whom the agent renders services. The contract must be dated and show the name of the agent, the charges or fees to be paid by the worker for the agent's services, and other prescribed information.

Among other conditions specified in the law, employment agents are required (1) to give every worker from whom any fees or charges are exacted an itemized receipt for each such charge, and (2) to keep a detailed record identifying each employer to whom any worker was referred, the name and address of each such worker, the occupation or position offered and filled, the expected duration of employment, the wage to be paid, the amount of the agent's fee, the date and amount of payment, and related information. It is unlawful, among other practices, for an employment agent to knowingly print or publish a false or fraudulent notice or advertisement regarding employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). The Department has supervisory and investigative authority over employment agencies, agents and counselors. Representatives of this agency have the right to examine all records required to be kept by such entities and to investigate the advertisements and other communications circulated by them before the public, to determine compliance. The Department may take legal action against employment agencies or agents for confirmed violations, and any such violation may also be prosecuted as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE LABOR LAWS (MIGRANT LABOR RECRUITMENT)

STATUTORY CITATION: Minn. Stat. §§ 181.85 - 181.91

GENERAL SUMMARY: The state labor statutes include provisions regulating the recruitment of out-of-state migrant workers for seasonal agricultural labor in Minnesota.

SPECIFIC TERMS AND CONDITIONS

Every processor of fruits and vegetables in Minnesota that employs, either directly or indirectly through a recruiter, more than 30 migrant workers per day, for more than 7 days in a calendar year, must comply with the disclosure provisions summarized in the next paragraph. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

At the time of recruitment, the employer is required to provide each such worker with a written employment statement plainly specifying, in English and Spanish, all of the following:

- (1) The date on which and the place at which the statement was provided to the worker.
- (2) The names and permanent addresses of the worker, employer and recruiter.
- (3) The expected date of the worker's arrival at the job site, the anticipated date the job will begin, the approximate hours of employment, and the minimum period of employment.
- (4) The crops and crop operations in which the worker will be employed.
- (5) The wage rates to be paid.
- (6) The terms of payment.

- (7) Any wage deductions to be made.
- (8) Whether or not housing will be provided.

The required employment statement is deemed an enforceable contract between the worker and the employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$500, plus court costs and attorney's fees.

STATE LABOR LAWS (FALSE STATEMENTS IN RECRUITMENT)

STATUTORY CITATION: Minn. Stat. §§ 181.64 - 181.65

GENERAL SUMMARY: It is illegal for a person or firm doing business in Minnesota to recruit or induce a worker to relocate from some other place in order to work in any form of labor in Minnesota, (1) by means of knowingly false representations concerning the type of work, wages, or sanitary conditions, or (2) by failing to advise the worker of a strike or lockout at the place of proposed employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against misrepresentation in recruitment applies to agricultural employment the same as any other classification of labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who is recruited or induced to change his or her place of employment, as described above, has a right to sue for recovery of damages sustained as a consequence of any misrepresentation, false advertising or false pretenses. In addition to actual damages, the worker is entitled to reasonable attorney's fees.

○ STATE LABOR LAWS (EMPLOYMENT CONTRACTS)

STATUTORY CITATION: Minn. Stat. §§ 181.55 - 181.57

GENERAL SUMMARY: When a contract of employment is consummated between an employer and a worker for services to be performed in Minnesota (or performed outside the state, but for a Minnesota employer), the employer must give the worker a signed agreement of hire which shows, among other things, (1) the date of agreement, (2) the date employment is to begin, (3) the rate of pay at which earnings will be computed, and (4) the number of hours constituting a regular day's work and the pay rate for any overtime to be paid. These provisions generally apply only to employers with 10 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement for a written agreement of hire between employers and employees does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — These provisions are enforced in civil court.

LABOR RELATIONS AND COLLECTIVE BARGAINING

MINNESOTA LABOR RELATIONS ACT

STATUTORY CITATION: Minn. Stat. §§ 179.01 – 179.17

GENERAL SUMMARY: The Minnesota Labor Relations Act (1) affirms the right of most workers in the state to organize, to bargain collectively through representatives of their own choosing, and to engage in related labor activities, (2) affirms the right of most employers to associate together for collective bargaining purposes, (3) defines certain unlawful labor practices by employers and workers, (4) establishes state-administered procedures for determining appropriate bargaining units and holding secret-ballot representational elections, and (5) authorizes civil actions to prevent or eliminate unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minnesota Labor Relations Act **does not apply** to individuals employed in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Minnesota Bureau of Mediation Services, St. Paul, Minnesota 55108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINNESOTA LABOR UNION DEMOCRACY ACT

STATUTORY CITATION: Minn. Stat. §§ 179.18 - 179.25

GENERAL SUMMARY: The Labor Union Democracy Act imposes conditions, limitations and procedures for the election of labor union officers, including requirements for advance notice of elections, voting by secret ballot, and four-year term limits. The law also sets general standards for the reporting of financial receipts, disbursements, assets and liabilities to the union membership.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minnesota Labor Union Democracy Act **does not apply** to individuals employed in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Minnesota Bureau of Mediation Services, St. Paul, Minnesota 55108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE CONTROL LAWS

STATUTORY CITATION: Minn. Stat. §§ 18B.01 - 18B.39

RELATED REGULATIONS: Minn. Admin. R. 1505.0830 - 1505.2080

GENERAL SUMMARY: The state pesticide control laws regulate the sale and use of pesticide products in Minnesota, in part by (1) requiring the licensing of commercial and private applicators, (2) imposing bonding, insurance and recordkeeping requirements on commercial applicators, (3) defining certain prohibited uses of pesticides, and (4) establishing procedures for private requests for inspections related to pesticide applications.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — No one may use or supervise the use of any pesticide for hire without a commercial applicator's license issued by the state. Likewise, farm operators who use restricted-use pesticides in their own agricultural operations must be certified as private applicators, which generally requires that each applicant undergo prescribed training and receive subsequent instruction or information to assure continuing competency and ability to use restricted pesticides properly.

FINANCIAL RESPONSIBILITY — Prior to issuance or renewal of a commercial applicator's license, the applicant must post a performance bond or secure insurance, in either case establishing assets of at least \$50,000 to cover liability for damages associated with the applicant's pesticide operations.

PROHIBITED USE OF PESTICIDES — No one may use, store, handle or dispose of a pesticide, pesticide container, or pesticide application equipment in a manner inconsistent with product labeling, in any way that could endanger humans or damage crops and animals, or in such a way as to adversely affect the environment. It is illegal to direct a pesticide on any property beyond the boundaries of the target site, to damage adjacent property as a result of a pesticide application, or to directly apply a pesticide on a human or expose a worker in an immediately adjacent open field.

SAFEGUARDS AT APPLICATION SITES — A person may not allow a pesticide or unrinsed pesticide container to be stored or to remain at any site without adequate safeguards to prevent the movement or escape of the material from the site.

POSTING — If a pesticide label prescribes a specific period of hours or days before it is safe for human re-entry into an area following treatment with the product, the person applying the pesticide must post warning signs in the field or other areas where the product has been applied, in accordance with label instructions and state regulations. Fields treated through irrigation systems must be posted throughout the period of treatment.

RECORDKEEPING AND REPORTING — Each licensed commercial applicator must maintain a record of all pesticide treatments, to include such items as the date and time of treatment, the material and dosage used, the number of units treated, the location of the target site, the wind velocity and temperature at the time and place of application, the name and address of the customer, and the name and address of the applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Regulation, Inspection and Enforcement Division, Minnesota Department of Agriculture, St. Paul, Minnesota 55155 (651-201-6333). The Department is responsible for licensing and certification of pesticide applicators in the state, and for monitoring their operations to ensure compliance with the statutory and regulatory provisions applicable to those activities. Agents of the Department have access at reasonable times to all places where pesticides are used, stored or disposed of, and may inspect such premises, observe the use and application of pesticides, and investigate complaints. The agency is authorized to issue written warnings, issue stop-use orders, and take other administrative measures to remedy violations of the pesticide control laws. The Department may request county attorneys or the state attorney general to bring civil action to stop any violation or threatened violation of the pesticide control laws. Violators are subject to both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Minn. Stat. §§ 182.65 - 182.676

RELATED REGULATIONS: Minn. Admin. R. 5206.1300 - 5206.1900

GENERAL SUMMARY: Under explicit authority granted by the state Occupational Safety and Health Act, the labor commissioner has adopted rules requiring most Minnesota employers who have one or more employees to furnish information to their employees about the hazardous chemicals to which they are exposed on the job. Employers must also provide special safety-related training prior to the initial assignment of a worker to a job site where the employee may be routinely exposed to a hazardous substance or harmful physical agent.

PROVISIONS APPLICABLE TO AGRICULTURE

TRAINING — Every farm operator or other agricultural establishment that (1) employs more than 10 workers, or (2) maintains a temporary labor camp and employs any of its residents, must provide the workers with a state-prescribed training program concerning the hazardous substances and harmful physical agents to which the workers are routinely exposed on the job. Normally, training must be provided before workers are first assigned to a job site where they may be routinely exposed to a hazardous substance or harmful physical agent, and at least once a year thereafter. The employer must keep a record of the training provided for each employee.

Training under most circumstances must be presented to the workers orally, in a language understood by each participant. The content of the training program depends on the nature and extent of exposure, but oral training generally must cover such topics as the identity of the substances or agents involved, the known symptoms and effects of exposure, appropriate emergency treatment, and proper conditions for safe use and exposure. Any worker who is exposed to hazards on the job, but who is not a handler of hazardous substances and is employed for not more than 5 days, is entitled at least to comparable written information, in a language understood by the worker.

ACCESS TO INFORMATION — A farmworker who is employed (1) in a farming operation that employs more than 10 employees, or (2) by a farm operator who maintains a temporary labor camp, is entitled to access to detailed written information on the hazardous substances and harmful physical agents encountered at the place of employment, comparable to the information required to be covered in the training program described above. All other agricultural workers, and any agricultural employee association or union representing them, have the right to receive from their employer, upon request and within a reasonable period of time, the labeling information from the container of any substance or chemical (including a pesticide product) to which they are routinely exposed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742). The Department is authorized to visit any place of employment in the state, to interview workers and employers, to inspect labeling and other forms of hazardous substance warning, and observe training, with an aim toward enforcing compliance with the Act's hazardous substance provisions. Failure by an employer to provide required training, or an employer's denial of access to safety information regarding hazardous substances or harmful physical agents, should be reported to the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Minn. Stat. §§ 182.65 - 182.676

RELATED REGULATIONS: Minn. Admin. R. 5205.0010

GENERAL SUMMARY: The state Occupational Safety and Health Act authorizes the adoption and enforcement of specific occupational safety and health standards.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Minnesota's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FERTILIZER, SOIL AMENDMENT, AND PLANT AMENDMENT LAW

STATUTORY CITATION: Minn. Stat. §§ 18C.001 – 18C.80

RELATED REGULATIONS: Minn. Admin. R. 1513.0010 - 1513.1100

GENERAL SUMMARY: The Fertilizer, Soil Amendment, and Plant Amendment Law regulates the sale, use and storage of fertilizers and related products used to promote plant growth. Under rulemaking authority granted by this statute, the state agriculture commissioner has adopted regulations governing the design, construction, location, installation and operation of anhydrous ammonia systems, which are widely used in agriculture.

SPECIFIC TERMS AND CONDITIONS: Among many other provisions, the anhydrous ammonia regulations enforced by the state agriculture department include provisions relevant to workers who transport or apply ammonia in the fields.

SAFETY TRAINING — Workers required to handle, transport or otherwise work with ammonia must receive federally prescribed safety training.

CONTAINERS — Tanks attached to farm wagons and other implements used to transport ammonia must be securely mounted, and all gauges, connections, valves, guards and other appurtenances must comply with qualitative and quantitative standards spelled out in the regulations.

WARNING SIGNS — On each side and at each end of an on-farm ammonia container, the words "Anhydrous Ammonia" and "Inhalation Hazard" must appear, in letters at least 2 inches high.

SAFETY EQUIPMENT — An ammonia tank must be equipped with at least 5 gallons of clean water, in a vessel designed to provide ready access to the water for flushing any area of the body contacted by ammonia.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Regulation, Inspection and Enforcement Division, Minnesota Department of Agriculture, St. Paul, Minnesota 55155 (651-201-6333).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

■ STATE LABOR LAWS (TRANSPORTATION FOR CORN DETASSELERS)

STATUTORY CITATION: Minn. Stat. § 181.83

GENERAL SUMMARY: The state labor statutes include certain protections for workers employed to detassel corn in Minnesota, including a requirement for employer-paid transportation under some circumstances.

SPECIFIC TERMS AND CONDITIONS: Whenever an employer discharges a worker employed to detassel corn, or such a worker is injured or becomes ill on the job, the employer must provide the worker with transportation from the workplace to the location where the worker was picked up that day. Furthermore, the employer is required to compensate the worker, at the individual's regular rate of pay, for the elapsed time between termination, injury or onset of the illness, and arrival at the pick-up point.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Because this section of the state labor laws does not include enforcement or penalty provisions, the only recourse for corn detasselers denied transportation and related pay under this provision is action against the employer in civil court, using a private attorney or public legal service provider. However, there appears to be no statutory right to sue under this law.

WAGES AND HOURS

MINNESOTA FAIR LABOR STANDARDS ACT

STATUTORY CITATION: Minn. Stat. §§ 177.21 - 177.35

GENERAL SUMMARY: Among other provisions, the Minnesota Fair Labor Standards Act requires employers in the state to pay their covered employees no less than the specified minimum hourly wage applicable to their respective operations. The Act establishes two distinct minimum wage rates, one for workers employed by large establishments and one for workers in small establishments. There is also a designated rate for workers under the age of 20, applicable to hours worked during the first 90 days on the job.

In addition to the minimum wage provisions, the Act also prescribes recordkeeping and posting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — With four exceptions, described further on, agricultural employers must comply with the state minimum wage provisions outlined below.

Large Employers — Farm operators and other agricultural establishments that have an annual gross sales volume of \$500,000 or more must pay their workers age 20 and over no less than \$9.50 for every hour of work. For the first 90 consecutive days of employment, workers under the age of 20 may be paid no less than \$7.75 an hour.

Small Employers — Farm employers with gross annual sales of less than \$500,000 must pay all their workers no less than \$7.75 for every hour of work.

Beginning in 2017, these rates are expected to be increased annually, either (1) by 2.5 percent, or (2) by a percentage rate determined by the state labor commissioner using prescribed inflation data. However, the commissioner may order an increase not to take effect if economic conditions suggest an impending downturn in the state's economy.

EXCEPTIONS — Agricultural employers are not required to pay any of the minimum wage rates shown above to:

- (1) A farmworker who receives a salary (that is, the worker is not paid by the hour) and works on a farming unit or operation where no more than 2 such workers are employed.
- (2) A farmworker who receives a weekly salary (that is, the worker is not paid by the hour), and the salary is greater than the equivalent of 48 hours at the state minimum wage plus 17 hours at time-and-a-half. At the current minimum wage, this excludes any worker who receives a weekly salary of roughly \$698 or more on a large farm, or \$569 or more on a small farm.
- (3) A worker under 18 who is employed to perform hand field work when one or both of the worker's parents are also hand field workers.
- (4) A worker under 18 who is employed as a corn detasseler.

DEDUCTIONS — To the extent that the resulting wages would amount to less than the applicable minimum, no direct or indirect deductions may be made for any of the following items:

- (1) Special clothing which is required by the employer, by the nature of the job, or by law as a condition of the job, and which is not generally appropriate for use except on that job.
- (2) Purchased or rented equipment used on the job, except for tools, vehicles or other equipment which may be used outside the employment.
- (3) Consumable supplies required in the course of work.
- (4) Travel expenses in the course of employment, except those incurred in traveling between the worker's residence and the workplace.

RECORDKEEPING — Every employer subject to the Act must make and keep a record of (1) the name, address and occupation of each worker, (2) the rate of pay and amount paid each pay period to each worker, and (3) the hours worked each day and each workweek by the worker.

POSTING — Every employer subject to the Act must post summaries of the Act and the associated regulations in a conspicuous location accessible to each covered worker.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such violations are subject to a fine of from \$700 to \$3,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). Representatives of this agency are responsible for assuring employer compliance with the state Fair Labor Standards Act, and for that purpose are authorized to examine payroll records, books and other documents related to wages, hours and working conditions at any place of business or employment. The Department may investigate wage claims or complaints by any worker against an employer if failure to pay a wage may violate state law or an agency regulation. In addition to the unpaid wages involved, an employer who pays a worker less than the required minimum wage may also be liable to the worker for an additional equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, a worker may take private civil action to collect a minimum wage claim, using legal counsel of the worker's own choice. A judgment against the employer may include court costs and attorney's fees.

■ MINNESOTA FAIR LABOR STANDARDS ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Minn. Stat. §§ 177.21 - 177.35

GENERAL SUMMARY: The Minnesota Fair Labor Standards Act generally forbids employers in the state from employing anyone for a workweek longer than 48 hours, unless the worker receives compensation for each hour in excess of 48 hours at a rate at least 11/2 times the worker's regular rate of pay.

PROVISIONS APPLICABLE TO AGRICULTURE

OVERTIME PAY — Aside from the rather narrow exemptions outlined below, farmworkers in Minnesota must be paid time-and-a-half for employment in excess of 48 hours in any workweek.

EXEMPTIONS — The overtime requirement does not apply to:

- (1) A farmworker who receives a salary (that is, the worker is not paid by the hour) and works on a farming unit or operation where no more than 2 such workers are employed.
- (2) A farmworker who receives a weekly salary (that is, the worker is not paid by the hour), and the salary is greater than the equivalent of 48 hours at the state minimum wage plus 17 hours at time-and-a-half. At the current minimum wage, this excludes any worker who receives a weekly salary of roughly \$698 or more on a large farm, or \$569 or more on a small farm.
- (3) A worker under 18 who is employed to perform hand field work when one or both of the worker's parents are also hand field workers.
- (4) A sugarbeet hand laborer employed on a piecework basis, provided the hourly equivalent of the worker's regular pay exceeds the applicable state minimum wage by at least 40 cents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such violations are subject to a fine of from \$700 to \$3,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). Representatives of this agency are responsible for assuring employer compliance with the state Fair Labor Standards Act, and for that purpose are authorized to examine payroll records, books and other documents related to wages, hours and working conditions at any place of business or employment. The Department may investigate wage claims or complaints by any worker against an employer if failure to pay a wage may violate state law or an agency regulation. In addition to the unpaid wages involved, an employer who pays a worker less than the required minimum wage or overtime may also be liable to the worker for an additional equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, a worker may take private civil action to collect unpaid overtime, using legal counsel of the worker's own choice. A judgment against the employer may include court costs and attorney's fees.

■ STATE LABOR LAWS (MIGRANT LABOR GUARANTEED MINIMUM HOURS)

STATUTORY CITATION: Minn. Stat. § 181.87

GENERAL SUMMARY: The state labor laws contain protections for out-of-state migrant workers recruited for seasonal agricultural labor in Minnesota, including guaranteed minimum hours of employment. As used in these provisions, the term "migrant worker" means an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

SPECIFIC TERMS AND CONDITIONS

GUARANTEED HOURS — Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in a calendar year must guarantee to each such worker a minimum of 70 hours' pay for work in any 2 successive weeks. If a worker's pay for the hours actually worked amounts to less than the minimum guarantee, the employer must pay the worker the difference within 3 days after the scheduled payday for the pay period involved. Payment for the guaranteed hours must be at the hourly wage rate, if any, specified in the employment disclosure required at the time of recruitment (see entry, Minnesota — Labor Contractors & Worker Recruitment — Recruitment Standards), or the federal minimum wage, whichever is higher.

PERIOD OF GUARANTEE — The pay guarantee applies for the minimum period of employment specified in the employment disclosure, beginning on the date on which employment is to commence.

REDUCTION OF GUARANTEED HOURS — When, due to weather or other uncontrollable forces, there is no work available for a period of 7 or more consecutive days during any two-week period after the commencement of work, the guarantee will be reduced by 5 hours a day for each such day, provided that each worker is paid the sum of \$5 for each such day.

TERMINATION OF EMPLOYMENT — Whenever a worker quits or is fired for cause prior to completion of the job for which the worker was hired, he or she is not entitled to any further guarantee of hours from that employer. If termination occurs before the end of the two-week pay period, the worker is not entitled to a guarantee for that period.

REFUSAL OR INABILITY TO WORK — If on any day for which work is offered a worker refuses to work, or is unable to work due to illness or disability, the employer may reduce the pay period's guarantee by the number of hours of work actually offered by the employer that day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$250, plus court costs and attorney's fees.

STATE LABOR LAWS (WAGE PAYMENTS)

STATUTORY CITATION: Minn. Stat. §§ 181.01 - 181.172 and § 181.79

GENERAL SUMMARY: The state labor laws include wage payment provisions covering pay periods and paydays, wage deductions, wage assignments, pay statements, final payment of wages, and related subjects. These provisions generally apply equally to all agricultural and non-agricultural employment.

PROVISIONS APPLICABLE TO AGRICULTURE

PAY PERIODS AND PAYDAYS — In general, every worker performing labor or services which require changes in residence must receive earnings at intervals of not more than 15 days. Otherwise, employers must pay all wages due an employee at least once every 31 days, on a regular payday designated in advance by the employer.

WAGE DEDUCTIONS FOR LOSS OR DAMAGE — As a rule, no employer may make any deduction, directly or indirectly, for damage to property, or to recover any claimed indebtedness, unless the worker voluntarily and in writing authorizes the employer to do so and the authorization is made after the loss has occurred or the indebtedness has arisen.

WAGE ASSIGNMENTS — No assignment of wages to be earned in the future to secure a loan of less than \$200 is valid until the assignment is accepted in writing by the employer and is recorded with the city or town clerk. Also, a wage assignment made by a married worker is not valid without the written consent of the worker's spouse.

PAY STATEMENTS — At the end of each pay period, an employer must give each worker a written earnings statement that includes the worker's name, the hourly pay rate (if applicable), the total number of hours worked (unless exempt from the state minimum wage law), the gross pay earned, a list of any deductions made from the worker's gross earnings, the worker's net pay, and the ending date of the pay period.

FINAL COMPENSATION — When a worker performing labor which requires the worker to change residences leaves the job or is discharged, the employer must pay the worker's final wages within 24 hours; if not, the employer is responsible for the worker's living expenses while the worker awaits his or her earnings. In the case of migrant workers, wages earned but unpaid at the time the employee quits are due and payable within 5 days thereafter. For all other workers, earnings that are unpaid at the time the employee quits are payable no later than the next regularly scheduled payday.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). The Department is authorized to assist a worker in the collection of unpaid wages, and under certain conditions, the statutes make employers who fail to meet the time limits described in the wage payment provisions liable to the worker for both the unpaid wages and monetary penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Workers have an explicit right to take court action against employers for recovery of unpaid wages directly, utilizing a private attorney or public legal service provider.

→ STATE LABOR LAWS (MIGRANT LABOR WAGE PAYMENTS)

STATUTORY CITATION: Minn. Stat. §§ 181.85 - 181.91

GENERAL SUMMARY: The state labor laws contain protections for out-of-state migrant workers recruited for seasonal agricultural employment in Minnesota, including certain wage payment and employer recordkeeping requirements.

SPECIFIC TERMS AND CONDITIONS: Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in a calendar year must observe the wage payment and recordkeeping provisions outlined below. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota

BI-WEEKLY PAY — A subject employer must pay wages due to each migrant worker at least once every 2 weeks. Final wages are due within 3 days of termination.

STATEMENT OF DEDUCTIONS — The employer must provide a written statement with every payment of wages clearly itemizing each deduction from the worker's wages.

RECORDKEEPING — With respect to each migrant worker recruited, the employer must maintain complete and accurate payroll records for each pay period, including the worker's name, daily hours worked, rate of pay, and the amount of wages paid. Records must be preserved for a period of at least 3 years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$250, plus court costs and attorney's fees.

■ INCOME AND FRANCHISE TAX LAWS

STATUTORY CITATION: Minn. Stat. §§ 290.01 - 9744 and §§ 289A.01 - 289A.63

GENERAL SUMMARY: The state income and franchise tax laws impose an annual tax on the income of Minnesota residents, and non-residents who have any earnings from employment in the state. Employers are generally required to withhold state income tax from the wages of their employees, insofar as such wages are subject to withholding of federal income taxes, and to forward withheld taxes to the state for credit against the employees' income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Minnesota must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

Exception — Employers are not required to withhold Minnesota income tax from wages paid to a worker who is not a resident of Minnesota if the amount the employer expects to pay the worker is less than the minimum income requirement for a non-resident to file a Minnesota individual income tax return (currently \$10,700).

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Income Tax and Withholding Division, Minnesota Department of Revenue, St. Paul, Minnesota 55146 (651-282-9999; toll-free 800-657-3594).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

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Mississippi

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

O CHILD LABOR LAWS

STATUTORY CITATION: Miss. Code §§ 71-1-17 - 71-1-31

GENERAL SUMMARY: With respect to any mill, cannery, workshop, factory or manufacturing establishment, the state child labor laws generally prohibit the employment of any child under 14 years of age at any time, and forbid the employment of any 14- or 15-year-old for more than 8 hours a day, more than 44 hours a week, or between the hours of 7:00 p.m. and 6:00 a.m.

PROVISIONS APPLICABLE TO AGRICULTURE: The child labor laws **do not apply** to employment on a farm or to any other workplace not explicitly cited above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by county sheriffs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Miss. Code §§ 37-13-80 - 37-13-107

GENERAL SUMMARY: With only narrow exceptions, the Mississippi Compulsory School Attendance Law requires the parent, guardian or custodian of any child who reaches the age of 6 on or before September 1 of any year, but is under the age of 17 by that date, to enroll the child in a public school or a legitimate non-public school for the ensuing school year and assure the child's attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: Children of compulsory school age are required to attend school without regard to their own employment status or that of their parents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Compulsory School Attendance Enforcement, Mississippi Department of Education, Jackson, Mississippi 39205 (601-359-3178). The Compulsory School Attendance Law is enforced by school attendance officers employed and supervised by the Department. Attendance officers must investigate all cases of non-attendance and unlawful absences by compulsory-aged children not enrolled in a non-public school. When a school attendance officer has exhausted attempts to secure the attendance of a compulsory-school-age child, the attendance officer must file a report with the youth court, which has jurisdiction to enforce school and education laws. The youth court may order any public school to enroll or re-enroll any compulsory-school-age child after notice and hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ WORKERS' COMPENSATION LAW (MINORS ILLEGALLY EMPLOYED)

STATUTORY CITATION: Miss. Code § 71-3-107

GENERAL SUMMARY: Under the Workers' Compensation Law, a worker who is under 18 years of age and employed in violation of the state child labor laws at the time of a compensable job-related injury is generally entitled to double the amount of compensation otherwise payable for such injury. Furthermore, the employer alone, not the insurance carrier, is liable for the increased compensation.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as neither the child labor laws nor the Workers' Compensation Law is applicable to on-farm labor, the provision authorizing double compensation for unlawfully employed minors injured on the job **does not apply** to minors employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Mississippi Workers' Compensation Commission, Jackson, Mississippi 39216.
SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

→ MISSISSIPPI EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Miss. Code §§ 71-5-1 – 71-5-543

GENERAL SUMMARY: The Mississippi Employment Security Law requires most employers in the state to pay contributions into the state unemployment insurance fund, which is established under the law solely for the payment of cash benefits to workers who are temporarily out of work and have sufficient past earnings from UI-covered employment to qualify. With some exceptions, every employer who (1) pays \$1,500 or more in wages in any calendar quarter of the current or preceding calendar year, or (2) employs at least one person for some part of a day in each of 20 different calendar weeks this year or last, must pay contributions to the UI fund on their employees' behalf.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every agricultural employer who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, must pay unemployment insurance contributions to the state. Subject employers are generally liable for UI taxes computed against the first \$14,000 in wages paid to each worker during the calendar year.

ELIGIBILITY FOR BENEFITS — Unless otherwise disqualified, a farmworker, like any other unemployed individual, is generally eligible to receive UI benefits if the state administering agency finds that the worker (1) has registered for work and continued to report to the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim for benefits, earned wages for insured work equal to no less than 40 times the worker's weekly benefit amount (explained below), earned insured wages in at least 2 quarters of the four-quarter base period, and earned insured wages amounting to at least 26 times the minimum weekly benefit amount (or \$780, at the current \$30 minimum) during the one quarter of the base period in which the worker's earnings were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is roughly equal to 1/26 of the claimant's total wages for insured work paid during the high-earnings quarter of the four-quarter base period. In no case, however, may the weekly benefit amount exceed (1) \$235, or (2) 60 percent of the statewide average weekly wage for the preceding year, whichever is less; as noted above, the minimum weekly benefit amount is \$30. For any week of unemployment, an eligible claimant is entitled to a payment equal to the weekly benefit amount, minus any earnings from part-time employment that week in excess of \$40.

SEASONAL WORKER PROVISIONS — Workers who have earnings from employment in certain designated seasonal industries are subject to special limitations on the periods during which unemployment compensation is payable. The only agriculturally related industry currently classified as seasonal is cotton ginning.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Mississippi Department of Employment Security, Jackson, Mississippi 39215 (601-321-6000; toll-free 888-844-3577). The Department is responsible for administering all aspects of the state's unemployment insurance system, including determination of employer liability for UI taxes, collection of UI taxes, processing of UI claims, adjudication of liability and claims appeals, and payment of benefits. Applications for unemployment compensation may be filed online, at https://accessms.mdes.ms.gov/accessms/enter.do.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Miss. Code §§ 71-3-1 - 71-3-225

GENERAL SUMMARY: The Workers' Compensation Law makes most Mississippi employers liable for certain specified benefits, including payment of medical costs and cash compensation, for the disability or death of an employee from injury or occupational disease arising out of and in the course of employment, without regard to fault. An employer subject to the law must insure payment of such compensation by purchasing a prescribed workers' compensation insurance policy, or furnish the state with proof of financial ability to pay compensation directly. Failure to secure payment of compensation as required is a misdemeanor, punishable by fine, imprisonment, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: While the Workers' Compensation Law applies to the commercial processing of agricultural products, it **does not apply** to farmers or farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Mississippi Workers' Compensation Commission, Jackson, Mississippi 39216. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

MISSISSIPPI PESTICIDE APPLICATION LAW OF 1975

STATUTORY CITATION: Miss. Code §§ 69-23-101 - 69-23-135

RELATED REGULATIONS: 2 Miss. Admin. Code 1-3-09

GENERAL SUMMARY: The Mississippi Pesticide Application Law provides for the certification of applicators of restricted-use pesticides in the state, imposes certain operational restrictions and duties on pesticide applicators, and authorizes the state agriculture department to adopt additional regulatory controls over the use of pesticide products.

PROVISIONS APPLICABLE TO AGRICULTURE

CERTIFICATION AND LICENSING — Except for aerial pesticide and herbicide applicators, who are licensed under separate statutory authority, it is illegal for anyone to use or apply restricted-use pesticides in Mississippi without having been certified or licensed under the Pesticide Application Law. As a condition for certification, commercial and private applicators must demonstrate, by written or oral examination, competency and knowledge with respect to the proper use of pesticides in the particular use category for which certification is sought.

PROHIBITED ACTS — Among other practices, it is unlawful for a licensed or unlicensed applicator (1) to operate in a faulty or negligent manner, (2) to knowingly operate faulty or unsafe equipment in such a manner as to cause damage to persons or property, (3) to refuse or neglect to keep required records or make required reports, or (4) to fail or refuse to comply with rules or orders issued by the state enforcement agency.

RECORDKEEPING — Except for private applicators and applicators licensed under separate authority, applicators certified under these provisions must keep complete and accurate records of all work performed and must retain such records for at least 2 years. At a minimum, each record must include the location where each pesticide was applied, the date of application, the name and amount of the chemical used, and the target pest involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390). In addition to its licensing function under the Pesticide Application Law, the Department may enter any public or private property at reasonable times to investigate a specific complaint of injury resulting from application of a restricted-use pesticide or to monitor compliance with the law and the associated regulations. The Department may suspend, revoke or refuse to renew the certification of any licensee or certificate-holder found to have violated these provisions, and may petition the courts to enjoin any such infraction. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

AGRICULTURAL AVIATION LICENSING LAW OF 2009

STATUTORY CITATION: Miss. Code §§ 69-21-101 - 69-21-128

RELATED REGULATIONS: 2 Miss. Admin. Code 1-3-10

GENERAL SUMMARY: The Agricultural Aviation Licensing Law regulates the licensing of persons engaged in the aerial application of pesticides, poisons, seeds, fertilizer and chemicals on agricultural lands in Mississippi, and requires the registration of all commercial agricultural aircraft in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

LICENSING AND REGISTRATION — It is unlawful for any person to dispense any pesticide, fertilizer or seed by aircraft, either as a pilot or as the operator of such a business, unless the person has an applicator's license or pilot's license issued by the state agriculture department for that purpose. Likewise, all aircraft used for aerial application of agricultural substances must be registered with the department.

FINANCIAL RESPONSIBILITY — Every individual seeking a license for aerial agricultural operations must submit proof of financial responsibility to the state licensing agency, in the form of a surety bond or a liability insurance policy, covering damages resulting from aerial applications. Liability coverage must be in an amount not less than \$100,000 for personal injury, \$300,000 for multiple injuries, and \$100,000 for property damage.

RECORDKEEPING — Aerial applicators are required to keep a record of each pesticide application. The record must include the date of the application, the product used, the rate of application, the crop or site treated, the target pest involved, the number of acres treated, the location of the site, the identity of the property owner, the wind velocity and other climatic conditions at the time of application, the name of the pilot, the registration number of the aircraft used, and a write-up on any accidents or other unusual occurrences during the application.

DUTIES OF THE CHIEF PILOT — The person designated as the chief pilot of an agricultural aircraft operation is responsible for supervision of the operation, for regularly checking records to assure compliance with the law, and for ascertaining that each pilot is aware of and complies with his or her responsibilities under applicable state and federal regulations.

PROHIBITED ACTIVITIES — The enforcement agency may suspend an aerial applicator's or pilot's right to do business in Mississippi if the agency finds that the applicator or pilot has, among other infractions, applied pesticides in a faulty or negligent manner, failed or refused to keep required records or make required reports, performed work in a category for which the applicator or pilot is not licensed, or been convicted of a violation of the federal pesticide laws. It is illegal for anyone in the state to use or apply a pesticide product in a manner inconsistent with its labeling.

APPLICATION RESTRICTIONS — The regulations adopted under the Agricultural Aviation Licensing Law include numerous restrictions on the conditions under which aerial pesticide applications may be conducted, and require applicators and pilots to have meteorological equipment on hand for measuring and recording the geographic coordinates of application sites, wind speed and direction, and air temperatures. Spray equipment is subject to very specific standards for prevention of drift.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390). The Department has charge of licensing aerial applicators and pilots under the Agricultural Aviation Licensing Law, inspecting agricultural aircraft and related equipment, and monitoring aerial agricultural operations in the state. In exercising its enforcement authority, the Department may suspend an applicator's or pilot's right to do business, revoke or suspend the individual's license, or take other appropriate action if it finds that the individual has violated any provision of the law or any of the Department's rules and regulations. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

WAGE PAYMENT LAWS

STATUTORY CITATION: Miss. Code §§ 71-1-35 - 71-1-45

GENERAL SUMMARY: Chapter 1 of the state labor laws includes provisions governing payroll periods, medium of pay, and wage assignments.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYROLL PERIODS — The requirement that certain employers in Mississippi pay wages as often as every 2 weeks *does not apply* to agriculture or other non-specified industries.

MEDIUM OF PAY — The limitation on the use of trade checks, coupons and other such instruments by certain employers making wage payments *does not apply* to agriculture or other non-specified industries.

WAGE ASSIGNMENTS — In the agricultural sector, as elsewhere, the assignment of a worker's wages to a third party as security or payment for any merchandise is not binding on any employer, unless the merchant or creditor presents the employer with a copy of the assignment agreement or purchase contract between the worker and the merchant or creditor, and the employer agrees to the assignment arrangement in writing prior to delivery of the merchandise or consummation of the contract.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — These provisions are enforceable only in civil court, using a private attorney or public legal service provider.

DEBTOR-CREDITOR LAWS (CROP LIENS)

STATUTORY CITATION: Miss. Code § 85-7-1 and §§ 85-7-31 - 85-7-53

GENERAL SUMMARY: Chapter 7, Article 1 of the state statutes regulating the debtor-creditor relationship includes provisions granting farm laborers a lien on the crops in which they are employed for recoupment of unpaid wages.

SPECIFIC TERMS AND CONDITIONS: Every farmworker who cultivates, harvests or prepares for sale or market any crop in the state may assert a lien on the crop in order to collect unpaid wages from the farm owner or operator for whom such services were performed. The worker may enforce the lien by filing an affidavit before a clerk or justice in the county where the farm or crop is located. On receipt of a valid affidavit, the county official is required to issue a writ authorizing seizure of the crop and summoning the farm owner or operator to court to answer the complaint.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As outlined above, crop liens are enforceable only through the civil courts. A worker who wishes to assert his or her right to such a lien should consult with a private attorney or public legal service provider.

■ MISSISSIPPI INCOME TAX WITHHOLDING LAW OF 1968

STATUTORY CITATION: Miss. Code §§ 27-7-301 - 27-7-349

GENERAL SUMMARY: The Mississippi Income Tax Withholding Law requires most employers making any payment of wages to deduct and withhold state income taxes from such wages and to forward the amounts withheld to the state for credit against their employees' state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Wages paid for services performed in connection with farming are **exempt** from the Income Tax Withholding Law.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Withholding Income Division, Mississippi Department of Revenue, Jackson, Mississippi 39215 (601-923-7088).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Missouri

Missouri				
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Workplace Safety				
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Agricultural Field Sanitation				
Other				
General Employee Housing Standards				
Farm Labor Housing Standards				
Access and Visitation Rights				
Other				
Unemployment Insurance	•	Missouri Employment Security Law	400	
Workers' Compensation	0	Workers' Compensation Law	400	
Disability Insurance				
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Other				
Private Employment Agency Regulation				
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Other				
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Missouri

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 294.005 - 294.150

GENERAL SUMMARY: The child labor law sets age standards for the lawful employment of minors, restricts the time of day and maximum hours in which employment of minors is permitted, prohibits child labor in occupations regarded as hazardous, and requires issuance of a work certificate as a precondition to a child's employment under certain circumstances. These provisions make no substantive distinction between agricultural and non-agricultural occupations.

SPECIFIC TERMS AND CONDITIONS

MINIMUM AGE — With few exceptions, no child under 14 years of age may be employed or permitted to work at any time.

HOURS OF WORK — A child under the age of 16 may not be employed in any gainful occupation for more than 3 hours on a school day, 8 hours on a non-school day, or more than 6 days or 40 hours in any week. The employment of minors under 16 is forbidden before 7:00 a.m. and after 7:00 p.m. (or after 9:00 p.m. from June 1 through Labor Day).

HAZARDOUS OCCUPATIONS — No child under age 16 may be employed in an occupation regarded as hazardous, including, among others, work in connection with power-driven machinery and in the operation of a truck or motor vehicle.

WORK CERTIFICATES — With few exceptions, employers are prohibited from employing any person under 16 years of age during the regular school term, unless the child has been issued a work certificate by the school superintendent of the district in which the child resides. Work by such minors is permitted only during non-school hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403). Representatives of the Department are authorized to enter any place where children are employed and inspect work certificates and employment conditions in order to determine compliance with these provisions. A violation of the child labor law is classed as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 167.031 - 167.111

GENERAL SUMMARY: In general, every parent, guardian or other person in Missouri having custody or control of a child between the ages of 7 and 17 is responsible for assuring the child's regular attendance at a public, private, parochial, parish or home school, for the entire length of the school term. The upper age limit may be lowered to 16 by vote of the school board in any metropolitan school district.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment- or occupation-related exceptions to the school attendance requirement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The local school districts are responsible for enforcing the compulsory attendance law, through school attendance officers or comparable officials appointed for that purpose. Attendance officers are vested with the same enforcement powers exercised by deputy sheriffs in the performance of their duties, and hence are authorized to enter any place of employment, private business establishment or public property, inspect age and employment documents, and make arrests without warrant where truancy is in evidence. Parents, guardians and other individual custodians of children of compulsory school age who are not enrolled in school or fail to attend as required are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Commissioner of Education, Missouri Department of Elementary and Secondary Education, Jefferson City, Missouri 65101 (573-751-4212).

O WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Mo. Rev. Stat. § 287.250.7

GENERAL SUMMARY: In any case in which a worker injured or killed on the job is found to have been a minor knowingly employed in violation of the state child labor laws at the time of the injury or death, the worker or the worker's beneficiaries are entitled to an additional 50 percent of the amount of workers' compensation benefits payable for the accident.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the Workers' Compensation Law excludes farm labor from coverage, the provision authorizing 1:/2 times the normal benefit award in claims involving illegal child labor **does not apply** to minors employed as farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

CIVIL RIGHTS

• HUMAN RIGHTS LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 213.010 - 213.137

GENERAL SUMMARY: The state human rights law includes provisions which forbid employment discrimination on the basis of race, color, religion, national origin, sex, ancestry, age or disability, and establishes a state-administered mechanism for resolving related complaints. The law generally applies to all employers, both agricultural and non-agricultural, who have 6 or more employees.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal for a subject employer to commit any of the following discriminatory acts, among others:

- (1) To refuse to hire a job applicant, to fire an employee, or to discriminate against an employee with respect to compensation or the terms or privileges of employment, because of the applicant's or employee's race, color, religion, national origin, sex, ancestry, disability or age (where the individual is 40 years old or older, but under 70).
- (2) To limit, segregate or classify employees or job applicants, on any of these same grounds, in a way which would tend to deprive an individual of job opportunities or otherwise adversely affect the individual's status as an employee.
- (3) To publish or circulate any advertisement or statement, or use any form of job application, which directly or indirectly expresses any limitation, preference or specification related to race, color, religion, national origin, sex, ancestry, disability or age, unless such distinction is based on a bona fide occupational qualification.

Similar acts committed by employment agencies and labor organizations are also prohibited.

COMPLAINTS — Within 180 days of the alleged discriminatory act, a party claiming to be the victim of employment discrimination may file a complaint with the state enforcement agency. If the ensuing investigation finds probable cause for crediting the allegations of the complaint, the state agency must attempt to eliminate the unlawful practice through conference, conciliation and persuasion. In the event of failure to reach an informal settlement, the charges may be heard formally and an order may be issued against the employer or other entity at fault if the evidence presented at the hearing confirms a violation. A formal order may include appropriate affirmative action (such as hiring, reinstatement, upgrading, or back pay) and damages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Missouri Commission on Human Rights, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3325; toll-free 877-781-4236). In enforcing the human rights provisions, the Commission may receive and investigate complaints, hold hearings, compel the attendance of witnesses, subpoena documents, and issue orders for corrective action, as outlined above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker whose complaint to the Commission on Human Rights has not been processed to completion within 180 days after filing may bring a civil suit against the employer or other offending party, after requesting written notice of the right to do so from the state agency. The complainant has 90 days from the date of such notice to commence court action, but in no event may suit be filed any later than 2 years after the alleged discriminatory act or practice occurred. Once the state agency has terminated proceedings in favor of a private suit, no one may file or reinstate a complaint relating to the same act or practice.

EQUAL PAY LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.400 - 290.460

GENERAL SUMMARY: No employer in Missouri may pay any female employee at a wage rate less than the rate paid to male employees in the same establishment for the same quantity and quality of work in the same classification. This does not prohibit pay variations between males and females on the basis of seniority, ability, skill, difference in duties, difference in shift, hours of work, or other reasonable differentiation or factors other than sex, when exercised in good faith.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provisions apply to agricultural employers, and protect agricultural workers, to the same extent as in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor and Industrial Relations Commission, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-2461). Any female who believes the wages paid to her are less than the wages to which she is entitled under the equal pay law may file a complaint with the Commission, which is obligated to mediate the dispute.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any female employee with a wage claim based on unlawful sex discrimination may institute civil action against the employer to recover the unpaid wages, together with the costs of the suit, using a private lawyer or public legal service provider. Court action may not be commenced more than 6 months after the date of the alleged violation.

HEALTH AND SAFETY

EMPLOYEE HEALTH AND SAFETY LAWS (PREVENTION OF OCCUPATIONAL DISEASES)

STATUTORY CITATION: Mo. Rev. Stat. §§ 292.300 – 292.440

GENERAL SUMMARY: Every employer of labor in the state whose trade or work exposes one or more workers to illness or disease incident to the job is required to adopt appropriate workplace practices and provide other effective means for preventing such occupational illness and disease.

Under the same statutory provisions, employers who use labor in any activity in which the workers use or come into contact with poisonous chemicals in harmful quantities, or in a harmful way, generally must provide (1) cool, sanitary drinking water and drinking facilities, within reasonable access and without cost to the workers, and (2) adequate and sanitary washing facilities.

PROVISIONS APPLICABLE TO AGRICULTURE: The occupational disease prevention laws implicitly apply to agricultural workplaces, to the extent that the workers employed are exposed to toxic materials such as pesticides.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403). Inspectors from the Department are required to visit as often as possible all places of employment in the state where workers are exposed to harmful substances, and to check compliance with the sanitation equipment requirements applicable to such workplaces. The Department is responsible for prosecuting violations of these provisions. Each infraction carries a possible fine ranging from \$25 to \$250.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

STATUTORY CITATION: Mo. Rev. Stat. §§ 288.010 - 288.501

GENERAL SUMMARY: The Missouri Employment Security Law authorizes the payment of cash compensation to workers who are temporarily unemployed, and for that purpose requires most employers in the state to pay contributions to the state unemployment compensation fund in proportion to the amount of wages paid. With some exceptions, the law requires employers to pay UI taxes if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other agricultural establishment that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state. The amount of an employer's contributions is computed by multiplying the wages paid to the employer's workers during the calendar year (up to an annually prescribed per-worker taxable wage limit, in normal years equal to \$12,000), by the employer's annually assigned UI tax rate.

ELIGIBILITY FOR BENEFITS — Like any other unemployed individual, a farmworker is generally eligible for unemployment benefits if the state agency finds that the worker (1) has registered for work and continued to report to the state employment office, (2) is able to work and available for work, (3) has been unemployed for a waiting period of one week, (4) has made a claim for benefits, and (5) meets either one of the following conditions:

- (a) Has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned total wages for insured employment equal to at least $1^{1}/2$ times the wages earned in the one quarter when wages were highest, and has earned wages of \$1,500 or more in at least one quarter of the four-quarter base period.
- (b) Received wages in at least 2 calendar quarters of the base period, totaling no less than $1^{1}/2$ times the maximum taxable wage limit mentioned above (\$18,000, assuming a wage limit of \$12,000).

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is normally 4 percent of the worker's wages averaged over the two quarters of the four-quarter base period when wages were highest, but not to exceed \$320. With respect to any week of total or partial unemployment, an eligible worker is entitled to a payment equal to the weekly benefit amount, minus any part-time earnings that week in excess of \$20.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Security, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65104 (573-751-3215). This agency is responsible for (1) determining the liability of employers for unemployment insurance contributions and settling related appeals, (2) collecting UI contributions from subject employers, (3) processing unemployment compensation claims and settling related appeals, and (4) paying benefits. A worker who has earnings from insured employment and is without work may file an application for benefits online, at www.ui.labor.mo.gov/som/IC_0010.jsp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 287.010 - 287.975

GENERAL SUMMARY: The Workers' Compensation Law requires most Missouri employers who have 5 or more employees to furnish compensation for personal injury or death of an employee resulting from an on-the-job accident or occupational disease, irrespective of negligence. Depending on the circumstances of the case, workers' compensation benefits may include, among others, (1) regular cash payments to the employee or the employee's dependents, to compensate for lost wages, (2) payment of medical costs associated with treatment, recovery and rehabilitation, (3) benefits for permanent partial disability, (4) benefits for permanent total disability, and (5) death benefits.

Every employer subject to the Workers' Compensation Law must meet the obligation to provide compensation by obtaining either a workers' compensation insurance policy through a commercial insurance carrier, or authorization from the state to cover the liability as a self-insurer. If an employer fails to comply with one of these two options, an injured employee or the employee's dependents may elect to bring suit against the employer to recover damages for personal injury or death, and the employer is barred from using as a defense in any such action that the employee had assumed the risk of the injury, or that the injury was caused by the worker's own negligence or the negligence of a co-worker.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law **does not apply** to employment of labor in the operation of a farm or the production of agricultural crops.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

MISSOURI PESTICIDE USE ACT

STATUTORY CITATION: Mo. Rev. Stat. §§ 281.005 - 281.116

RELATED REGULATIONS: Mo. Code Regs. Title 2, §§ 70-25.010 - 70-25.180

GENERAL SUMMARY: The Missouri Pesticide Use Act regulates the handling, application and disposal of pesticide products in the state, in part by requiring the licensing of applicators, establishing a damage claim filing procedure, and authorizing administrative adoption of additional controls over the use of pesticides in the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Among many others, the following categories of pesticide applicators are required to be licensed:

Certified Commercial Applicators — Anyone who charges a fee or receives compensation to apply or supervise the use of any pesticide in Missouri must first be licensed by the state as a certified commercial applicator. As a precondition for licensing, applicants must pass examinations demonstrating competence to apply pesticides safely and effectively and knowledge of applicable regulatory standards. Applicants must also pay an annual license fee of \$50.

Certified Private Applicators — Persons who use or supervise the use of restricted-use pesticides for agricultural purposes on their own land, or on someone else's land without compensation, must be licensed and certified as private applicators. Certification requires attendance at a state-administered or online course of instruction covering the use, handling, storage and application of restricted-use pesticides.

Non-Commercial Applicators — Individuals who are not regarded as private applicators and who use restricted-use products without compensation or profit on their own or their employer's land, are required to be licensed as certified non-commercial applicators. A license of this type necessitates, in part, completion of examinations to demonstrate competence in the proper use of pesticides under the classification for which licensing is sought, and knowledge of applicable regulatory standards.

FINANCIAL RESPONSIBILITY — Prior to licensing, a commercial pesticide applicator must present evidence of having secured a surety bond or liability insurance of at least \$50,000, protecting persons who may suffer legal damages as a result of the applicator's operations.

STORAGE AND DISPOSAL OF PESTICIDES — It is illegal to discard, transport or store any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

RECORDKEEPING — Commercial applicators must keep a record of each application of any general- or restricted-use pesticide, and must maintain the record for a period of 3 years from the date of application. At a minimum, the record must include the name and address of the customer, the location of the pesticide treatment, the target pests involved, the kind of pesticide applied, an estimate of the amount of pesticide used, and the date of the application. Non-commercial applicators applying restricted-use products are subject to comparable recordkeeping requirements.

DAMAGE CLAIMS — Any person who claims to have been damaged or injured as a result of an application of pesticides, and who requests an investigation by the state enforcement agency, must file a report of the incident with the state agency within 30 days after the date the damage is alleged to have occurred. The agency may inspect the damages and must make a report of the investigation available to the parties involved. In no case does failure to file a damage claim bar any criminal or civil action against anyone responsible for the misuse of a pesticide or any other violation of the Act.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Pesticide Control, Missouri Department of Agriculture, Jefferson City, Missouri 65102 (573-751-5504). The Department is responsible for testing, certification and licensing of pesticide applicators in the state, and for monitoring their compliance with applicable standards and procedural requirements authorized by the Act. With the owner's permission, representatives of the Department may enter private property at reasonable times to inspect land and equipment, observe pesticide applications, and investigate specific complaints. The Department is authorized to suspend, revoke or refuse to renew the license of any applicator who has violated the Act or the Department's regulations. Violations are classified as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SEED, FERTILIZER, AND FEED LAWS (ANHYDROUS AMMONIA STANDARDS)

STATUTORY CITATION: Mo. Rev. Stat. § 266.355

RELATED REGULATIONS: Mo. Code Regs. Title 2, § 90-11.010

GENERAL SUMMARY: Chapter 266 of the state statutes includes a provision authorizing adoption and enforcement of minimum general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting and utilizing anhydrous ammonia as an agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: Under the statutory authority noted above, the state agriculture department has adopted the American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia. The ANSI standards prescribe detailed specifications for the construction of ammonia storage tanks and associated components such as valves, hoses, gauges and other fittings. The standards also generally require that all personnel handling ammonia be trained in safe operating practices and appropriate emergency procedures.

More specifically, tanks attached to farm wagons, tractors or trailers for the purpose of transporting anhydrous ammonia to and from the fields, or applying ammonia to crops, must be securely mounted, equipped with certain required fittings and gauges, and properly labeled with prescribed identifying information. Storage and application tanks used in the field must be accompanied by one pair of goggles or a face shield, a pair of protective gloves, and a container of not less than 5 gallons of water for emergency purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Weights and Measures, Missouri Department of Agriculture, Jefferson City, Missouri 65102 (573-751-7062). This agency is responsible for performing safety inspections on anhydrous ammonia storage facilities, nurse tanks, and applicators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.500 - 290.530

RELATED REGULATIONS: Mo. Code Regs. Title 8, §§ 30-4.010 – 30-4.060

GENERAL SUMMARY: Missouri's minimum wage law requires most employers in the state to pay their employees no less than (1) the state minimum wage, or (2) the applicable federal minimum wage, whichever is higher.

The state minimum is currently \$7.70 an hour.

The state minimum wage rate may be increased or decreased on January 1 each year, according to the percentage increase or decrease in the cost of living, as determined by the state labor department.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers are entitled to the state minimum wage only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during a calendar quarter in the current or preceding calendar year. That volume of labor is equivalent to, for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination.

Exceptions — In addition to excluding farmworkers on smaller farms that do not meet the 500 worker-day threshold, the state minimum wage law generally does not apply to workers in either of these two categories:

- (1) Workers who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) commute daily from their permanent residence to the farm, and (d) were employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Workers 16 years of age or younger who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) are employed on the same farm as their parents, and (d) are paid the same piece rate as workers over the age of 16 are paid on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a claim, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403). A worker who believes he or she is entitled to the state minimum wage and who has not been paid accordingly may file a claim with the Department, which has authority to investigate and make findings as to an employer's compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — An employee may bring a civil suit against an employer to collect unpaid minimum wages, using a private attorney or public legal service provider. An employer found to have paid less than the required wages under this law is liable for the full amount of the wages, plus an additional equal amount as liquidated damages, less any amount actually paid, plus court costs and reasonable attorney's fees.

MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.500 – 290.530

RELATED REGULATIONS: Mo. Code Regs. Title 8, §§ 30-4.010 - 30-4.060

GENERAL SUMMARY: No employer covered by the state minimum wage law may employ a worker covered by that law for a workweek longer than 40 hours unless the employee is paid at least 1'/2 times his or her regular hourly pay rate for every hour of work over 40 that week.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the Minimum Wage Law **do not apply** to employees who are exempt from federal overtime requirements, and thus excludes agricultural workers from coverage (see entry, U.S. — Wages & Hours — Overtime Pay).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WAGE AND HOUR LAWS (LEGAL DAY'S WORK)

STATUTORY CITATION: Mo. Rev. Stat. § 290.010

GENERAL SUMMARY: On May 1, 1867, and thereafter, 8 hours is deemed to be a legal day's work in most trades and industries in Missouri.

PROVISIONS APPLICABLE TO AGRICULTURE: The 8-hour day **does not apply** to laborers in the service of farmers or others engaged in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE AND HOUR LAWS (WAGE PAYMENT)

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.080 - 290.130

GENERAL SUMMARY: Chapter 290 of the state statutes contains provisions related to pay periods and paydays, pay statements, wage rollbacks, and termination pay.

PROVISIONS APPLICABLE TO AGRICULTURE

PAY PERIODS AND PAYDAYS — Incorporated farming operations and other corporate employers in Missouri must generally pay the wages of their employees as often as semi-monthly, within 16 days of the close of each payroll period.

PAY STATEMENTS — At least once a month, corporate employers must furnish each employee with a written statement showing the total amount of deductions for the period covered.

NOTICE OF WAGE REDUCTION — Any corporation that intends to reduce the wages of its employees, or of any individual employee, must provide the affected worker or workers 30 days' notice of the planned change in pay.

FINAL WAGES — Whenever an employer, whether a corporate entity or otherwise, discharges a worker with or without cause, all wages earned and still unpaid become due and payable on the worker's last day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker may enforce these protections only through civil court action, using private legal counsel or a public legal service provider.

→ INCOME TAX LAW (WITHHOLDING OF TAX)

STATUTORY CITATION: Mo. Rev. Stat. §§ 143.191 - 143.265

GENERAL SUMMARY: The Missouri income tax law requires every employer transacting any business in the state, and paying any taxable wages to a resident or non-resident worker, to deduct and withhold state income tax from such wages, to the extent that the worker's pay is also subject to withholding of federal income taxes.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminated before the end of the year — the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Missouri must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Business Tax Bureau, Taxation Division, Missouri Department of Revenue, Jefferson City, Missouri 65101 (573-751-3505).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

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Montana

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

STATUTORY CITATION: Mont. Code §§ 41-2-102 - 41-2-120

GENERAL SUMMARY: The Child Labor Standards Act generally prohibits the employment of minors under 14 years of age, limits the days and hours during which 14- and 15-year-old workers may be employed, and bans the employment of certain minors in occupations deemed hazardous.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to work in most other occupations, children under the age of 14 may be employed in non-hazardous agricultural jobs if they have the written consent of their parent or guardian and the parent or guardian is working on the same farm or ranch.

WORKING HOURS — Unless they have written consent from their parent or guardian, children under the age of 16 are prohibited from working:

- (1) During school hours.
- (2) Before 7:00 a.m. or after 7:00 p.m. (after 9:00 p.m. from June 1 through Labor Day).
- (3) More than 3 hours on a school day or 18 hours in a school week.
- (4) More than 8 hours on a non-school day or 40 hours in a non-school week.

HAZARDOUS AGRICULTURAL OCCUPATIONS — Among other ag-related jobs declared off-limits, with few exceptions children under the age of 16 are prohibited from:

- (1) Working inside certain silos and fruit or grain storage structures.
- (2) Handling or using poisonous agricultural chemicals.
- (3) Transporting, transferring or applying anhydrous ammonia.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600). Representatives of the Department are authorized to enter and inspect any establishment subject to the Child Labor Standards Act, and to access employment records related to enforcement. The Department may file a complaint against an employer for a confirmed violation, which can be prosecuted as a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ENROLLMENT AND ATTENDANCE LAW

STATUTORY CITATION: Mont. Code §§ 20-5-101 – 20-5-111

GENERAL SUMMARY: With few exceptions, any parent, guardian or other person responsible for the care of a child (1) who is 7 years of age or older, and (2) who has not reached the age of 16 and has not completed the 8th grade, must enroll the child in a public school or its prescribed equivalent and assure the child's attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: A parent's responsibility for assuring school enrollment and attendance by his or her child applies without regard to the employment status or occupational classification of the parent or the child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory enrollment and attendance provisions are enforced by the attendance officer or officers employed by each school district in the state. Attendance officers are vested with police powers, the authority to serve warrants, and the authority to enter workplaces where children are employed, in order to enforce compliance. When a child of compulsory school age is discovered not enrolled in or absent from school without a valid excuse, the child's parent or guardian must be notified of the legal consequences of failure to compel the child's attendance. Failure to comply will result in a meeting with the parent or guardian to formulate a plan to resolve the truancy, and if compliance is still not forthcoming, the attendance officer may refer the matter to the local public attorney for possible prosecution. Conviction of the parent or guardian may result in a fine, an order to perform community service, or imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

• HUMAN RIGHTS LAWS (ILLEGAL DISCRIMINATION)

STATUTORY CITATION: Mont. Code §§ 49-2-101 – 49-2-602

GENERAL SUMMARY: Chapter 2 of the state human rights laws includes provisions prohibiting employment discrimination and other civil rights violations. These provisions are generally applicable to all agricultural and non-agricultural employers in Montana.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — It is unlawful for an employer to refuse to employ an individual, or to discriminate against an individual with respect to compensation, job conditions or privileges of employment, because of the individual's race, creed, religion, color, or national origin. Likewise, an employer may not discriminate on the basis of age, physical or mental disability, marital status or sex when the reasonable demands of the job do not require an age, physical or mental disability, marital status or sex distinction.

The publication or circulation of any employment advertisement or notice, or the use of a job application form, which expresses a preference, limitation or specification as to sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin is prohibited, unless such a preference, limitation or specification is based on a bona fide occupational qualification.

Employment agencies and labor organizations are also forbidden from engaging in comparable discriminatory acts.

COMPLAINTS — A complaint charging unlawful employment discrimination may be filed with the state enforcement agency by or on behalf of any aggrieved party, but a complaint may be processed only if filed within 180 days after the alleged act or practice occurred. If the state agency's staff investigation determines that the allegations are supported by substantial evidence, the staff must try to eliminate the discriminatory practice by mediation or conciliation. A formal hearing is required whenever such informal methods to resolve the matter are unsuccessful. A finding in favor of the complainant may result in an administrative order requiring the offending employer or other entity to compensate the complainant for any damages suffered, monetary or otherwise.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807). The Bureau is authorized to investigate discrimination complaints, subpoena witnesses and documents, and issue remedial orders, as described above. The Bureau has authority to petition the courts to temporarily restrain a discriminatory practice or interference with the Bureau's work, or to enforce a final order. In addition to civil liability, anyone who violates the job discrimination provisions is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Montana Human Rights Commission, Helena, Montana 59624. The Commission's role in discrimination complaints is limited largely to conducting hearings on dismissals of claims and appeals of final agency decisions issued by the Human Rights Bureau.

PRIVATE CIVIL ACTION — A worker is entitled to file a discrimination complaint in state district court only if the worker has first filed an administrative complaint with the Human Rights Bureau, and the Bureau (1) has been unable to resolve the matter within 180 days of filing and (2) concedes in a letter of release to the complainant that it will be unable to hold a hearing on the case within 12 months of the date of filing. The Bureau may also dismiss a complaint and allow the worker to take the matter to court if the staff determines that the Bureau lacks jurisdiction over the complaint, that the complaint is not supported by substantial evidence, or that the complainant has failed to cooperate with the Bureau. In no event, however, may district court take action on a suit filed later than 90 days from the time the complainant receives the letter of release from the state agency.

EQUAL PAY LAW

STATUTORY CITATION: Mont. Code § 39-3-104

GENERAL SUMMARY: It is unlawful for anyone in Montana to employ women in any occupation for compensation less than that paid to men for equivalent service, or for the same amount or class of work, at the same place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies to agricultural and non-agricultural employment without distinction.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807). A woman who has not received full wages as a result of sex discrimination on the job may file a claim with the Bureau. An employer who violates the equal pay law is subject to a criminal fine, as well as liability for unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

© CONSTITUTION OF THE STATE OF MONTANA (INDIVIDUAL DIGNITY)

STATUTORY CITATION: Mont. Const. Art. II, § 4

GENERAL SUMMARY: The state constitution prohibits public and private discrimination on the basis of race, color, sex, culture, social origin or condition, or political or religious ideas. The constitutional ban on discrimination on these grounds would include discriminatory acts against employees by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to all persons in Montana, regardless of occupational classification or employment status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers who believe they have been discriminated against because of their culture, political ideas, or social origin or condition, may wish to consult with a private attorney or public legal services program about the possibility of legal action under this provision.

HOUSING

○ STATE HEALTH AND SAFETY LAWS (WORK CAMPS)

STATUTORY CITATION: Mont. Code §§ 50-52-101 - 50-52-108

GENERAL SUMMARY: Chapter 52 of the state health and safety laws authorizes the state health department to adopt rules governing the construction and operation of work camps (among other types of temporary housing), briefly defined as housing facilities provided by an employer for 2 or more families or individuals living separately, for the exclusive use of the employer's workers and their families. A work camp may not be operated without a license from the state, and anyone operating a work camp must permit inspections by state or local health officers at all reasonable times.

PROVISIONS APPLICABLE TO AGRICULTURE: The term "housing" used to define what constitutes a work camp does not include shelter provided by an employer for persons employed as farm or ranch workers. Hence, the work camp licensing and inspection provisions do not apply to agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Food and Consumer Safety Section, Montana Department of Public Health and Human Services, Helena, Montana 59601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Mont. Code §§ 39-51-101 – 39-51-3208

GENERAL SUMMARY: The Unemployment Insurance Law establishes a state unemployment insurance fund, into which employers in Montana are required to pay contributions in rough proportion to their wage and salary payments, and from which weekly cash benefits are paid to workers who are temporarily unemployed and who meet the minimum earnings and other eligibility requirements prescribed in the law. In general, employers are required to pay UI taxes if they paid at least \$1,000 in wages in the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other agricultural establishment that (1) pays \$20,000 or more in cash for agricultural labor in any quarter of the current or preceding calendar year, or (2) employs 10 or more workers in agricultural labor on at least one day in each of 20 different weeks during the current or preceding calendar year, or (3) has a total non-agricultural payroll in excess of \$1,000 in the current or preceding calendar year, must pay unemployment insurance contributions to the state on behalf of its agricultural employees. A subject employer is generally liable for UI taxes on each worker's wages over the calendar year, up to a per-worker taxable wage limit of (1) 80 percent of the statewide average annual wage, or (2) the federal taxable wage base (currently \$7,000), whichever is higher.

ELIGIBILITY FOR BENEFITS — In brief, an unemployed worker is eligible for unemployment benefits if the state administering agency determines that the worker (1) has filed a claim and continued to report to the Job Service Montana office, (2) is able to work, available for work, and seeking work, (3) has been unemployed for a waiting period of one week, and (4) has met *either* of the following earnings requirements over the first four of the last five completed calendar quarters immediately preceding the claim:

- (a) Earned total wages of at least $1^{1}/2$ times the wages earned in the one quarter when earnings were highest, but not less than 7 percent of the statewide average annual wage.
- (b) Earned at least 50 percent of the statewide average annual wage.

AMOUNT OF BENEFITS — The weekly benefit amount for an eligible claimant is generally equal to 1 percent of the worker's total wages over the four-quarter base period, or 1.9 percent of the total wages earned in the 2 calendar quarters when wages were highest. In no event may the weekly benefit amount exceed 66.5 percent of the statewide average weekly wage for covered employment in Montana for the preceding year, nor may the amount be less than 19 percent of the average weekly wage. For any week of total or partial unemployment, an eligible claimant is generally entitled to a payment equal to the weekly benefit amount, minus 50 percent of any wages earned that week in excess of one-fourth of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-3783). Unemployment insurance tax liability determinations, collection of UI taxes, benefit claim determinations, employer and claimant appeals, and benefit payments are all under the administrative control of the Department. UI claims may be filed online, at app.mt.gov/ui4u/index.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKERS' COMPENSATION ACT

STATUTORY CITATION: Mont. Code §§ 39-71-101 - 39-71-4004

GENERAL SUMMARY: The Workers' Compensation Act requires most employers in Montana to enroll in one of three compensation plans, all of which guarantee the payment of medical costs and wage compensation benefits in the event of a worker's accidental job-related injury or death. Plan 1 provides for payment of compensation directly by the employer, who must furnish the state administering agency with proof of solvency and financial ability to pay claims as a self-insurer. Under Plan 2, the employer insures the liability to pay benefits by purchasing a standard workers' compensation insurance policy from a commercial insurance carrier. Plan 3 requires the employer to pay premiums into a state compensation insurance fund, which in turn pays benefits to the employees of participating employers for compensable personal injury or death.

Any employer subject to the Act who has not properly complied with the requirement to enroll in a workers' compensation plan will be ordered to cease operations until coverage is secured. An injured worker who is employed by an uninsured employer, and who is otherwise eligible for compensation, is entitled to benefits through the state uninsured employer's fund, but if the worker or the worker's beneficiaries elect to take civil action to recover damages for the injury, the uninsured employer may generally not plead as a defense that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risks inherent in the employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Act applies to agricultural employers and protects agricultural workers in Montana to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Regulation Bureau, Employer Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-1555). The Department is responsible for enforcement of the employer's obligation to enroll in a workers' compensation plan, and for assuring the timely processing of claims and payment of benefits. A worker who is injured on the job generally must file a report of the accident with the employer within 30 days thereafter in order to realize benefits. A claim for compensation based on such an injury must be filed with the Department, the employer, or the employer's insurer, depending on the compensation plan involved, but as a rule, a decision on the claim must be made within 30 days of receipt. A claimant who has a dispute concerning benefits may petition a workers' compensation judge for a determination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

STATE LABOR LAWS (DECEPTION IN RECRUITMENT)

STATUTORY CITATION: Mont. Code § 39-2-303

GENERAL SUMMARY: Chapter 2, Part 3 of the state labor laws includes a provision limiting certain forms of recruitment activity, affecting both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS: It is illegal for anyone doing business in Montana to induce or persuade workers to change from one place of employment to another within the state through deception, misrepresentation or false advertising concerning the kind of work available, the sanitary conditions on the job, other terms of employment, or the existence of a strike or similar labor dispute at the job site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who has relocated within the state on the basis of false or deceptive job recruitment practices contrary to this provision is entitled to recovery of damages sustained as a consequence, in a private suit utilizing legal counsel of the worker's own choice. A judgment in the worker's favor may include payment of reasonable attorney's fees.

PESTICIDES AND AGRICULTURAL CHEMICALS

MONTANA PESTICIDES ACT

STATUTORY CITATION: Mont. Code §§ 80-8-101 – 80-8-401

RELATED REGULATIONS: Mont. Admin. R. 4.10.101 – 4.10.1808

GENERAL SUMMARY: The Montana Pesticides Act controls the use of pesticide products in the state, in part through the licensing of pesticide applicators and operators, and the authorization of specific rules relating to application practices, financial responsibility, recordkeeping, and other matters.

SPECIFIC TERMS AND CONDITIONS

LICENSING -

Farm Applicators — Individuals who apply pesticides to their own crops must obtain a special-use permit prior to purchasing and using any restricted-use pesticide. To qualify for an initial five-year permit, farm applicators must either pass a written examination or attend a state-approved training course, to assure the applicant's practical knowledge regarding agricultural pests, pesticide product labeling, application procedures, environmental considerations, and pesticide poisoning symptoms and accident procedures. Farm applicators must re-qualify for renewal of the permit by attending a 6-hour refresher course.

Commercial Applicators — It is illegal for anyone to engage in the business of applying pesticides for any other person without first obtaining an annual license from the state to do so. Before such a license is issued, the applicant generally must pass a written examination to assure the person's competency to use pesticides safely and effectively, must submit proof of financial responsibility, and must meet other licensing requirements.

GENERAL OPERATING PRACTICES — The state enforcement agency may modify or revoke, or refuse to grant or renew, the license or permit of an applicator who has (1) applied a pesticide without having a current and appropriate license or permit, (2) operated in a faulty, careless or negligent manner, (3) operated faulty or unsafe equipment, (4) refused or neglected to comply with the Act, the associated regulations or a lawful order of the state agency, (5) refused or neglected to keep required records or make required reports, or (6) used or applied a registered pesticide in a manner inconsistent with its labeling.

In addition, it is unlawful for anyone (1) to handle, transport or store pesticides or pesticide containers in such a way as to endanger people, food, other products, or the environment, (2) to apply or attempt to apply a pesticide contrary to label instructions, or (3) to discard any pesticide or pesticide container in such a manner as to cause injury to humans, domestic animals or wildlife, or to pollute any waterway.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Services Bureau, Montana Department of Agriculture, Helena, Montana 59601 (406-444-5400). This agency is responsible for licensing of pesticide applicators in the state, and for enforcing their compliance with the Pesticides Act and related regulations. With a warrant or the consent of the inhabitant or owner, agents of the Department have authority to enter any public or private property in order to inspect pesticides, pesticide application equipment and facilities, application records, and actual or reported damages caused by pesticides. Similarly, the Department may observe the use, application, storage or disposal of any pesticide product anywhere in the state. The Act prescribes both civil and criminal penalties for persons found in violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EMPLOYEE AND COMMUNITY HAZARDOUS CHEMICAL INFORMATION ACT

STATUTORY CITATION: Mont. Code §§ 50-78-101 - 50-78-402

GENERAL SUMMARY: The Employee and Community Hazardous Chemical Information Act affirms the right of most workers in Montana to be informed by their employer of their actual or potential exposure to hazardous chemicals on the job. Employers subject to the Act must compile, maintain, and allow workers access to a workplace chemical list showing the common and chemical names of any hazardous substance present in the workplace and identifying the work area in which the substance is normally stored or used. Likewise, the employer must obtain a material safety data sheet for each such hazardous chemical and make the information available to any employee who wishes to review or copy it.

Each employee potentially exposed to hazardous substances must receive training from the employer on the hazards of workplace chemicals and on protective measures for handling those substances, and the employer must provide appropriate protective equipment for each employee required to work with a hazardous chemical. Subject employers are also obligated to post notices informing their employees of their rights under the Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act **does not apply** to any chemical subject to the packaging and labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, which includes most agricultural pesticides, defoliants and other plant regulators.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced by local health officers and county attorneys. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

ANHYDROUS AMMONIA FACILITIES SAFETY ACT

STATUTORY CITATION: Mont. Code §§ 80-10-501 - 80-10-509

RELATED REGULATIONS: Mont. Admin. R. 4.12.701 – 4.12.743

GENERAL SUMMARY: The Anhydrous Ammonia Facilities Safety Act authorizes the state agriculture department to adopt rules applicable to facilities used to process, store, distribute and apply anhydrous ammonia, a commonly used and hazardous agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: In addition to provisions governing the design, construction, repair, alteration, location, installation and operation of off-farm anhydrous ammonia tanks and related equipment, the regulations include requirements for the safe transportation, handling and application of ammonia by on-farm personnel.

ON-FARM TRANSPORTATION SYSTEMS — Containers of 2,000 gallons capacity or less that are mounted on farm wagons used to transport ammonia are subject to detailed qualitative and quantitative standards governing construction, mountings, valves and accessories, and safety markings identifying the substance inside. The wagons must be securely attached to the vehicle pulling them and constructed to prevent the towed wagon from whipping or swerving from side to side.

All farm wagons are required to carry at least 5 gallons of readily accessible clean water, for emergency treatment in the event of injuries to workers handling or applying the product.

ON-FARM APPLICATION SYSTEMS — Containers mounted on farm implements used for the field application of ammonia must meet prescribed standards of construction, must be mounted securely, and must be marked clearly to identify the substance inside. Each such container must be equipped with a liquid-level gauge, a shutoff valve, and related devices. Applicators may not be filled any closer than 100 yards from any occupied building.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Commodity Services Bureau, Montana Department of Agriculture, Helena, Montana 59601 (406-444-5419). The Department has authority to access and inspect any anhydrous ammonia facility in Montana, and when a violation is confirmed the agency may — after an opportunity for a hearing — certify the facts to a prosecuting attorney. Penalties range from \$300 to \$500 first a first violation, and up to \$1,000 thereafter.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MONTANA MINIMUM WAGE AND OVERTIME COMPENSATION ACT

STATUTORY CITATION: Mont. Code §§ 39-3-401 - 39-3-409

GENERAL SUMMARY: Chapter 3, Part 4 of the state labor laws requires most Montana employers who have annual gross sales above \$110,000 to pay their employees no less than either the state minimum wage (currently \$8.05 an hour) or the federal minimum wage (\$7.25), whichever is greater. Employers with sales not exceeding \$110,000 are generally required to pay their employees no less than \$4.00 an hour.

On or before September 30 each year, the state minimum wage rate may be adjusted, to reflect any changes in the August-to-August cost of living. The adjusted minimum wage takes effect on January 1 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworkers in Montana are generally subject to the same minimum wage standards as other workers in the state, as summarized above, with one variation. In the case of a worker employed for part of a calendar year that includes periods requiring working hours in excess of 8 hours a day and other seasonal periods requiring working hours substantially less than 8 hours a day, a subject employer has three options:

- Pay the worker by the hour, at or above the applicable minimum specified above.
- (2) Pay the worker at a fixed rate of compensation, but guarantee the applicable minimum wage for every hour of actual employment by keeping a record of the hours worked. The total wages paid to the worker may not be less than the applicable minimum, multiplied by the total number of hours worked.
- (3) Pay a monthly salary in lieu of the minimum wage, but in no case less than \$635 a month. The employer is authorized to include as part of the worker's salary the reasonable cost of furnishing the worker with lodging or other facilities, provided such benefits are customarily furnished by the employer to his or her workers, and that the costs for these benefits do not exceed 40 percent of the worker's total salary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600). A worker who has been paid wages at a rate less than the wage or salary required under the minimum wage law may file a complaint with the Department, which is authorized to assist in collection of the unpaid amount as a wage claim action under the state wage payment law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MONTANA MINIMUM WAGE AND OVERTIME COMPENSATION ACT (OVERTIME PAY)

STATUTORY CITATION: Mont. Code §§ 39-3-401 - 39-3-409

GENERAL SUMMARY: Under the Minimum Wage and Overtime Compensation Act, most employees are entitled to no less than 1½ times their regular hourly rate of pay for all employment in excess of 40 hours in a workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision in the state minimum wage law **does not apply** to farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ CONSTITUTION OF THE STATE OF MONTANA (DAY'S WORK)

STATUTORY CITATION: Mont. Const. Art. XII, § 2

GENERAL SUMMARY: Article XII, Section 2 of the state constitution generally defines a regular day's work as 8 hours on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The constitutional provision for an 8-hour day **does not apply** to agriculture.

SPECIAL NOTES OR ADVISORIES

INTERPRETATION OF EXCLUSION — Although the state constitution excludes agriculture from the 8-hour day, questions regarding the scope of the term "agriculture" are resolved by the Commissioner of Labor and Industry. Such decisions may be reviewed by the state courts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — This provision is enforceable only in civil court.

WAGE PAYMENT LAWS

STATUTORY CITATION: Mont. Code §§ 39-3-101 – 39-3-216

GENERAL SUMMARY: Chapter 3, Parts 1 and 2 of the state labor laws include provisions regarding prior disclosure of wages and paydays, medium of pay, statements of deductions, and final wages.

PROVISIONS APPLICABLE TO AGRICULTURE

PRIOR DISCLOSURE — The general requirement that employers, on written demand, notify new or prospective employees of the wage rate to be paid, the basis for payment, and the date of paydays, *does not apply* to workers employed in agriculture.

MEDIUM OF PAY — All employers in Montana must pay wages (1) in lawful U.S. money, (2) by check convertible into cash on demand at full face value, or (3) by direct deposit if the employee has consented in writing to this mode of payment.

STATEMENT OF DEDUCTIONS — At the time of each payment of wages or salaries, employers must give each worker an itemized statement showing the amount and purpose of every deduction from the worker's pay. Where no deduction is made, the employer must provide the worker with a written statement to that effect.

FINAL WAGES — When a worker is discharged by the employer for cause, all unpaid wages are due and payable immediately upon separation. In any other case, the employer generally must pay final wages within 3 days of termination.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604. It is the Department's duty to respond to a worker's claim for unpaid wages, by investigating and attempting to collect the claim informally or by instituting legal action on the worker's behalf. In addition to liability for the wages involved, an employer found to have violated the wage payment laws may be assessed a penalty of up to 110 percent of the unpaid wages, payable to the worker. Violators are also subject to criminal prosecution by the local county attorney. In general, a complaint must be filed no later than 180 days after the unpaid wages were due.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor and Industry, a worker may sue for recovery of unpaid wages in a private civil action, using his or her own counsel. In addition to the unpaid wages and the penalty described above, a favorable judgment may also include court costs and reasonable attorney's fees.

FARM LABORERS' LIEN LAW

STATUTORY CITATION: Mont. Code §§ 71-3-401 - 71-3-408

GENERAL SUMMARY: State law grants farm laborers in Montana a lien on their employer's crops as security for the payment of wages for their services, up to \$1,000 per worker.

SPECIFIC TERMS AND CONDITIONS

ENTITLEMENT — Other than a worker who quits without cause before the end of the agreed-upon term of employment, a person who performs services as a farm laborer and who does not receive all wages due from the farm operator is entitled to a lien on the crops grown or harvested by the operator, for up to \$1,000 in unpaid wages. The farm laborers' lien has priority over all other liens, mortgages and encumbrances, except seed grain and threshers' liens and three months' feed for one horse, two cows and their calves, four hogs, and 50 domestic fowl.

ENFORCEMENT — To enforce the lien, the worker must file a claim with the office of the Secretary of State, within 30 days after the worker's services for the employer are completed. The statement of the claim must be signed by the worker and (1) include the names and addresses of both the worker and the farm operator, (2) note that the claim is a farm laborer's lien, (3) describe the farm products that are the basis of the lien, (4) describe the nature of the services performed by the worker and the terms and period of employment, (5) state the amount of the wages agreed on and the amount of the unpaid wages, and (6) specify the county where the crops are located.

With legal counsel arranged by the worker, court action to enforce the lien must be commenced within 90 days of filing.

DISCHARGE OF THE LIEN — Once the unpaid wages have been received and the lien has been satisfied, the worker is required to file a termination statement with the Secretary of State's office, on a form prescribed for that purpose.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *UCC Division, Montana Secretary of State, Helena, Montana 59620 (406-444-2468).* This office is responsible for receiving and recording liens filed by workers and others with claims for unpaid debts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As indicated above, the farm laborers' lien is enforceable only through the civil courts, using private legal counsel or a public legal service provider. The lien should be filed as soon as possible after wages become due and unpaid.

■ INDIVIDUAL INCOME TAX LAW

STATUTORY CITATION: Mont. Code §§ 15-30-2101 - 15-30-3321

GENERAL SUMMARY: The state individual income tax law imposes a tax on, among other items, the employment earnings of Montana residents, as well as non-residents who have earnings from services performed within the state. Every employer who pays any worker any wages subject to state withholding must deduct state income tax from the worker's pay and forward withheld taxes to the state for credit against the worker's income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: For purposes of withholding, the term "wages" does not include remuneration paid for agricultural labor. Hence, agricultural employers and their workers are **exempt** from withholding of state income tax from earnings.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Income and Withholding Taxes Bureau, Business and Income Taxes Division, Montana Department of Revenue, Helena, Montana 59604 (406-444-6900; toll-free 866-859-2254).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Nebraska

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Nebraska

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-301 - 48-313

GENERAL SUMMARY: The state child labor law requires most employers in Nebraska to obtain an employment certificate as a prerequisite to hiring any minor under 16 years of age, limits the working hours of persons under 16, and forbids the employment of anyone under 16 in any job that is dangerous to the child's life, health or morals.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT CERTIFICATES — In general, no minor under the age of 16 may be employed or permitted to work unless the employer first obtains from the minor and keeps on file an employment certificate issued by the local school district. Except in connection with a state-approved vocational education program, an employment certificate may not be issued to anyone under 14.

WORKING HOURS — Minors under 16 years of age are not permitted to work for more than 8 hours in any one day or more than 48 hours in any one week, nor generally before the hour of 6:00 a.m. or after 10:00 p.m.

HAZARDOUS OCCUPATIONS — Minors under 16 may not be employed in work that is dangerous to life, safety or health. Whether or not a particular activity is hazardous is judged by the enforcement agency case-by-case.

EXCEPTIONS FOR WEEDING, ROGUING OR DETASSELING CORN OR OTHER SEED PRODUCTS — Minors under 16 and as young as 12 years old may be employed in these crop operations without the need of an employment certificate, provided (1) the employment occurs outside school hours during June, July or August, (2) the child's legal residence is within 75 miles of the workplace, and (3) the employer obtains written consent from the child's parent or guardian.

Children 12 through 15 years of age may be employed in this type of work only up to 48 hours in any one week, only up to 9 hours in any one day, and only between the hours of 6:00 a.m. and 8:00 p.m. (10:00 p.m. in the case of 14- and 15-year-olds).

Any employer who employs a child under 16 years of age in weeding, roguing or detasseling corn or other seed products is required to provide at least 2 supervisors who are 18 years of age or older at each such work location. The supervisors must be capable of assisting with issues of health, safety and wages. Likewise, the employer must provide the parents of each such child worker with an information sheet defining the terms of employment, including the availability of water and sanitation facilities on the job and the wages to be paid. The sheet must also include contact information for the state labor department for wage-complaint purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). Representatives of the Department are authorized to inspect documentary evidence of the age and employability of any minor employed at any workplace in the state, in order to ascertain compliance with the child labor laws. Violations are treated as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 79-201 - 79-210

GENERAL SUMMARY: Every person in Nebraska who has legal or actual control of a child who will reach the age of 6 by January 1 of the then-current school year, but who has not reached age 18, must ensure that the child enrolls and regularly attends an approved public, private, denominational or parochial day school each day the school is open and in session that year.

In addition to other, more narrow exemptions, the compulsory education requirement does not apply where the services or earnings of a child are necessary for the support of those actually dependent on the child, or for his or her own support, provided the child is at least 14 years old and has completed the 8th grade. This exception to the school attendance requirement, however, is contingent on (1) application by the child's parent or guardian for an employment permit from the local school superintendent, and (2) attendance by the child at a part-time continuation school, if available, for 8 hours a week during the entire school year.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to children of compulsory school age, and to their parents or guardians, without occupational distinctions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory education law is enforced by city and county school superintendents, through attendance officers employed for that purpose. Whenever a child's reported failure to attend school as required comes to the attention of the superintendent, and subsequent investigation confirms unlawful absence, the local attendance officer must try informally to correct the violation. Continued failure by the parent or guardian to send the child to school must be reported to the county attorney for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

NEBRASKA FAIR EMPLOYMENT PRACTICE ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1101 - 48-1126

GENERAL SUMMARY: The Nebraska Fair Employment Practice Act seeks to foster the employment of all employable persons in the state on the basis of merit, regardless of their race, color, religion, sex, disability, marital status, or national origin, and to safeguard their right to obtain and hold employment without such discrimination. The Act generally applies to all agricultural and non-agricultural employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Among related illegal practices, it is unlawful for a subject employer (1) to refuse to hire a job applicant, to discharge an employee, or to discriminate in any other manner against an individual with respect to compensation or other employment conditions because of the individual's race, color, religion, sex, disability, marital status, or national origin, or (2) to limit, segregate or classify employees on any of these grounds in any way which tends to deprive a person of employment opportunities or otherwise adversely affect the person's status as an employee.

Furthermore, it is unlawful to publish or circulate any employment-related notice or advertisement which indicates a preference, limitation, specification or discrimination based on race, color, religion, sex, disability, marital status, or national origin, except where religion, sex, disability, marital status, or national origin is a bona fide occupational qualification for employment. Job application and hiring procedures that discriminate against a person with a disability, or against a woman who is pregnant or has given birth, are also prohibited.

Comparable acts of discrimination by employment agencies and labor organizations are similarly unlawful.

COMPLAINTS — A person who has suffered from an apparent discriminatory employment practice or act may file a complaint with the state enforcement agency at any time within 300 days after the alleged practice or act occurred. If preliminary investigation reveals reasonable evidence that the allegations have merit, the state agency must try to eliminate the illegal practice through conciliation. The agency may hold a public hearing in the event informal efforts to resolve the complaint are unsuccessful. An appropriate order by the state agency against an employer, employment agency or labor organization found to have committed unlawful employment discrimination may include reinstatement or hiring of the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112). The Commission is authorized to receive, investigate and adjudicate charges of unlawful employment practices anywhere in the state. In that capacity, the Commission may hold hearings, subpoena witnesses, and inspect payroll records and other documentation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EQUAL PAY LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1219 – 48-1227.01

GENERAL SUMMARY: With respect to employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, the practice of paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs with comparable requirements constitutes unlawful sex discrimination.

The prohibition against unequal pay does not, however, preclude wage differentials based on seniority, merit, quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to agricultural employers — and protects agricultural employees — on the same terms as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112). Representatives of the Commission may enter any place of employment to inspect and copy payroll and related records, observe employment operations and duties, question workers, and obtain other information necessary to the proper enforcement of the equal pay law. At the written request of a worker claiming to have been paid less than the wage to which he or she is entitled under the equal pay provision, the Commission may bring legal action on the worker's behalf to collect the unpaid wages, but generally only after making an effort to resolve the claim informally. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of the equal pay law has the option of filing a civil suit to recover unpaid wages directly, using a private attorney or public legal service provider. In a suit brought by the worker, if the court rules in the worker's favor and the violation is deemed to have been willful, the employer is liable not only for the unpaid wages, but an additional equal amount as liquidated damages.

• AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1001 - 48-1010

GENERAL SUMMARY: The Age Discrimination in Employment Act generally outlaws employment discrimination on the basis of age, when committed by employers who have 20 or more employees for each working day in each of 20 different calendar weeks in the current or preceding calendar year. The law applies to agricultural and non-agricultural employment without distinction.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for an employer subject to the Act to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to employment conditions because of the individual's age, when the reasonable demands of the position do not require such an age distinction. It is likewise illegal for an employer to willfully utilize an employment agency, labor organization or any other source of job applicants in the hiring or recruitment of individuals for employment when the employer is aware that the agency or organization discriminates against job-seekers on the basis of age.

The Act bans age discrimination only against persons who are at least 40 years of age, and permits certain age distinctions when age is a bona fide occupational qualification reasonably necessary to the normal operations of the business involved, or when the differentiation is based on reasonable factors other than age, such as physical conditions.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112). Anyone aggrieved by a suspected violation of the Act may file a complaint with the Commission, which must investigate the charges. When the evidence indicates that unlawful age discrimination has occurred, the Commission is authorized to bring civil action to compel compliance and enforce the rights of the complainant. A charge must be filed no later than 300 days after the alleged discriminatory act occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Equal Opportunity Commission does not file suit within 60 days after receipt of a complaint, the person aggrieved may take private legal action for relief on his or her own, through a private attorney or a public legal service provider. Filing of a civil suit by either the Commission or the complainant bars the filing of such an action by the other.

HEALTH AND SAFETY

STATE LABOR LAWS (SANITATION FACILITIES)

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-401 – 48-404

GENERAL SUMMARY: The state labor laws include workplace health and safety requirements which, among other provisions, impose a duty on employers at every factory, mill, workshop or other building where one or more persons are employed, to provide their employees with toilet facilities on the job, generally in a ratio of one unit for every 20 workers of each sex. Toilet facilities must be properly enclosed, ventilated and maintained by the employer in a clean and sanitary condition.

PROVISIONS APPLICABLE TO AGRICULTURE: The sanitation provisions in the state health and safety regulations do **not apply** to agricultural workplaces or other places of employment not explicitly mentioned in the statute.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-601 - 48-683

GENERAL SUMMARY: The Employment Security Law establishes an unemployment compensation fund for Nebraska, into which most employers in the state are required to pay contributions on behalf of their employees, and from which cash benefits are paid to unemployed workers who have earned sufficient wage credits from employers who have contributed to the fund. In general, employers must pay UI taxes on behalf of their workers if they (1) employ at least one person for some part of a day in each of 20 different calendar weeks within the current or preceding calendar year, or (2) have paid wages of \$1,500 or more in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is required to pay unemployment insurance contributions to the state fund. Normally, subject employers must pay UI taxes on the first \$9,000 in wages paid to each worker during the calendar year, at a tax rate computed annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In general, a worker is eligible to receive unemployment benefits if the state agency finds that the individual (1) has registered for work and continued to report to the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has earnings from insured employment, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, that equal or exceed an annually adjusted minimum amount — about \$4,146 in 2017 — including no less than \$1,850 in one such quarter and no less than \$800 in another.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is generally equal to one-half of the worker's average weekly earnings during the one quarter of the four-quarter base period in which wages were highest. The weekly benefit amount, however, may not exceed one-half of the annual average weekly wage for the state as a whole. The UI payment in a given week of partial or total unemployment is generally equal to the weekly benefit amount, unless the claimant's earnings from part-time work exceed one-fourth that sum, in which case the claimant is entitled to receive the weekly benefit amount minus that portion of the week's earnings that exceed one-fourth the benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Unemployment Insurance, Nebraska Department of Labor, Lincoln, Nebraska 68509 (402-458-2500). The Department has administrative control over the unemployment insurance system in the state, including the determination of employer liability for UI contributions, collection of contributions from subject employers, determination of eligibility for benefits, adjudication of tax and benefit appeals, and payment of benefits. Applications for unemployment compensation may be filed online, at https://neworks.nebraska.gov/vosnet/Default.aspx.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ NEBRASKA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-101 – 48-1,118

GENERAL SUMMARY: Under the Nebraska Workers' Compensation Act, when personal injury is caused to an employee by accident or occupational disease arising out of and in the course of employment, the employee is generally entitled to compensation from the employer as long as the employee was not willfully negligent at the time the injury was received. Workers' compensation includes, among other potential benefits, (1) medical, surgical and hospital services, and (2) cash payments to the employee in lieu of lost wages due to disability. If an employer does not carry a policy of workers' compensation insurance or qualify as a self-insurer, in any lawsuit by a worker or a worker's surviving dependents to recover damages for personal injury or death, the employer loses the right to claim as a defense that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risks inherent in the job.

With some exceptions, the Act applies to every employer in Nebraska who has one or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: An agricultural establishment is required to carry workers' compensation insurance covering its employees, or qualify as a self-insurer, if it employs 10 or more unrelated full-time workers on each working day for 13 calendar weeks in any calendar year. The employer's obligation to comply begins 30 days after the 13th such week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Nebraska Workers' Compensation Court, Lincoln, Nebraska 68509* (402-471-6468; toll-free 800-599-5155). The Workers' Compensation Court administers and enforces most aspects of the workers' compensation system, including the resolution of disputed claims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Office of the Attorney General, Lincoln, Nebraska 68509 (402-471-2683). The Attorney General represents the state when lawsuits arise in connection with liability for payment of benefits. The Attorney General has authority to settle such suits, with approval of the Workers' Compensation Court.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-501.01 - 48-524

GENERAL SUMMARY: The state labor laws include provisions regulating the business practices of employment agencies, which may include certain farm labor contractors.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person, firm or corporation may procure employment for any worker, where a fee or other valuable consideration is collected directly from the job-seeker, without first being licensed as a private employment agency. Similarly, no labor agent or other entity from outside the state may enter Nebraska and attempt to recruit, hire or transport out of Nebraska any agricultural workers, singly or in groups, for any purpose without an employment agency license permitting such activity.

BOND — Each applicant for a license must secure a surety bond in the amount of \$10,000, conditioned on compliance with the duties, responsibilities and restrictions imposed on licensees by these provisions.

RECORDKEEPING — Entities licensed as private employment agencies must issue to each worker placed on the job, and to each employer furnished with one or more workers, a record showing the occupation involved, the name and address of the worker, the amount of the fee charged the worker, the wages to be paid, the name and address of the employer, and the existence of any known strike or lockout at the job site.

REPORTING — Labor agents who recruit or hire farmworkers in Nebraska for employment outside the state must make monthly reports to the state enforcement agency showing (1) the name and address of each contractor, recruiter or comparable representative engaged in such activities on their behalf, (2) the name, address, age and sex of each worker solicited for out-of-state employment, (3) the name and address of each employer to whom the worker is referred, (4) the place of employment, (5) the kind of work to be performed, (6) the term of employment, (7) the wages to be paid, and (8) whether or not transportation is to be furnished, arranged or paid for, either out of or on return to Nebraska.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). The Department is responsible for the licensing of private employment agencies in the state and for monitoring their compliance with these provisions. The Department may cancel the license of any employment agency found to have violated the requirements imposed on the licensee and may institute criminal proceedings to enforce the prescribed penalties. The Department is also authorized to bring action in the name of the state against the licensee's bond for violation of any of its conditions, and to approve action on the bond by private parties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FARM LABOR CONTRACTORS ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1701 - 48-1714

RELATED REGULATIONS: 227 Neb. Admin. Code, Ch. 1 - 20

GENERAL SUMMARY: The Farm Labor Contractors Act regulates the activities of most individuals, firms and associations that, for a fee or other compensation, recruit, solicit, furnish, hire, employ or transport migrant or seasonal agricultural workers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With the exception of agricultural employers, agricultural associations and their employees, no one may engage in farm labor contracting activities (as described in brief above) without having a valid farm labor contractor's license issued by the state. Any contractor that has a workforce 80 percent or more of whom are 17 years of age or younger may apply to the state agency for a certificate exempting the contractor from these requirements.

BONDING — Before a contractor's license can be issued, the applicant must obtain a surety bond in an amount not less than \$5,000. The bond is conditioned, in part, on full payment of any wage claims filed by workers. Every farm labor contractor covered by the Act must post a notice at each workplace advising the workers of the terms of the bond and showing the name and address of the bonding agent.

DISCLOSURES — At the time of recruitment, hiring or assignment to the job, each worker employed through a licensed farm labor contractor must be given a written statement specifying (1) the rate of compensation to be paid and the method of computing pay, (2) the terms and conditions of any bonus to be paid, (3) the terms and conditions of any housing, health or daycare services to be provided, (4) the approximate duration and estimated start and end dates of employment, (5) the terms and conditions under which the worker will be provided with clothing or equipment, (6) the name and address of the owner of all operations where the worker will be working, and (7) the worker's rights and remedies in plain and simple language.

PAY STATEMENTS — With each payment of wages, workers must receive a written statement showing total earnings, the amount and purpose of each deduction from wages, the number of hours worked, and the amount of production (if paid on a piecework basis).

BILINGUAL ASSISTANCE — A farm labor contractor who has a workforce of 10 or more non-English-speaking workers who speak the same language is required to provide a bilingual employee at the worksite for each shift during which a non-English-speaking worker is employed.

PROHIBITED ACTS — It is illegal for a contractor, or an applicant for a contractor license, to (1) make any false statement or misrepresentation on the license application or in dealing with workers, (2) violate an existing employment contract, (3) assist anyone in the violation of the Act, or (4) use force, intimidation or a threat to induce a worker under the contractor's control or authority to give up any part of the compensation to which the worker is entitled.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). The Department is responsible for the licensing and certification of farm labor contractors in the state and for monitoring their compliance with these provisions. The Department may cancel the license of any contractor found to have violated the terms of the license and may institute criminal proceedings to enforce prescribed penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 2-2622 - 2-2659

RELATED REGULATIONS: 25 Neb. Admin. Code, Ch. 2

GENERAL SUMMARY: With the legislative aim of protecting human health and the environment, the Pesticide Act regulates the labeling, distribution, storage, transportation, use, application and disposal of pesticides.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION OF APPLICATORS — No one may use a restricted-use pesticide in Nebraska unless the person is (1) licensed as a commercial applicator, non-commercial applicator or private applicator, and (2) authorized by the license to use the product for the proposed use. As a condition for a license, applicants must pass an examination corresponding to the license category for which they are applying, and covering competency-and safety-related topics including (1) pesticide labeling, (2) pesticide toxicity, exposure, symptoms, and precautions, (3) environmental risk, (4) pest identification, (5) equipment, (6) application techniques, (7) equipment calibration, and (8) pesticide application laws and regulations. Depending on the license category involved, applicators may also be required to undergo performance testing, to demonstrate competency in their respective category.

RECORDKEEPING — Private applicators must record information about each restricted-use pesticide application they perform, including such details as the brand and generic names of the product applied, the total amount of the product applied, and a map or written description of the area treated. Commercial applicators are also required to identify the specific pest or pests targeted by each application of a restricted-use pesticide, the start- and end-times, and the method of disposal of any unused product. Records must be retained for at least 3 years from the date of each application.

PROHIBITED ACTS — Among other violations, it is unlawful for anyone (1) to use a pesticide contrary to the Pesticide Act or to the product label, (2) to store or discard a pesticide or pesticide container in a manner that is likely to cause injury to humans, the environment, vegetation, crops, livestock, wildlife or pollinating insects, or (3) to fail to make and preserve required records. Penalties for violations range from \$1,000 to \$5,000.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080). The Department is responsible for licensing and certification of pesticide applicators in the state, and for enforcing their compliance with the Pesticide Act. Inspectors from the agency conduct routine inspections of pesticide dealers and applicators and must also investigate reports of pesticide misuse. A formal complaint can be submitted to the Department by telephone or in writing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDE ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Neb. Rev. Stat. §§ 2-2655 - 2-2659

RELATED REGULATIONS: 25 Neb. Admin. Code, Ch. 2, § 005.02B(12)

GENERAL SUMMARY: In addition to the general standards outlined in the previous entry, the Pesticide Act imposes explicit licensing requirements on aerial pesticide applicators.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may apply pesticides by use of an aircraft unless he or she holds a Nebraska aerial pesticide business license, or is employed by such a licensee. Moreover, a person licensed as a commercial applicator may apply pesticides from an aircraft only under the direct supervision of a person holding a Nebraska aerial pesticide business license. The license application must include, among other items, the FAA registration number of all aircraft owned, rented or leased by the applicant that will be utilized for aerial pesticide operations.

STANDARDS OF COMPETENCY — Aerial applicators must demonstrate practical knowledge specifically related to aerial spraying, including (1) aerial equipment calibration and maintenance, (2) target crops and pests, (3) pesticide drift and potential for non-target injury, and (4) re-entry intervals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

TRANSPORTATION

● MOTOR VEHICLE OPERATOR'S LICENSE ACT (TEMPORARY IMMUNITY FOR NON-RESIDENTS)

STATUTORY CITATION: Neb. Rev. Stat. § 60-488

GENERAL SUMMARY: The Motor Vehicle Operator's License Act prohibits the operation of any motor vehicle on the streets, alleys and public highways of Nebraska unless the driver has obtained a license for that purpose from the state. The Act, however, grants temporary immunity from this requirement for certain non-residents, including agricultural workers.

SPECIFIC TERMS AND CONDITIONS: An individual who is a non-resident of Nebraska is entitled to 30 days' immunity from the motor vehicle operator's licensing requirement, provided the individual is duly licensed to drive in his or her home state. Furthermore, a person who is certified by the state labor department as being engaged in temporary agricultural employment in Nebraska for a period of no more than 60 days may be granted an additional 30 days of immunity if the worker's home state extends similar immunity to residents of Nebraska while temporarily engaged in agricultural employment in that other state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). This agency is authorized to provide the certification of temporary agricultural employment necessary for extended immunity of non-resident farmworkers from the drivers' license requirement.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Driver Licensing Services Division, Nebraska Department of Motor Vehicles, Lincoln, Nebraska 68509 (402-471-3861). This agency is responsible for the testing and licensing of drivers in the state.

WAGES AND HOURS

O WAGE AND HOUR ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1201 – 48-1209

GENERAL SUMMARY: The Wage and Hour Act requires most employers in Nebraska who have 4 or more employees at any one time to pay each of their employees at a rate no less than \$9.00 for every hour on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wage and Hour Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

NEBRASKA WAGE PAYMENT AND COLLECTION ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1228 - 48-1234

GENERAL SUMMARY: The Nebraska Wage Payment and Collection Act regulates paydays, wage deductions, and final pay in all private employment in the state, including agriculture. It applies to virtually all employers in Nebraska.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Each employer must pay all wages due on regular paydays designated by the employer, or agreed upon by the employer and the worker. An employer must give 30 days' written notice of any change in regular paydays.

WAGE STATEMENTS — On each regular payday, the employer generally must provide each employee with a statement showing, among other things, the number of hours worked, the wages earned, and any deductions made from the worker's gross pay.

WAGE DEDUCTIONS — The Act prohibits the deduction, withholding or diversion of any portion of a worker's wages unless required by state or federal law or court order, or unless authorized in writing by the worker.

FINAL PAY — Whenever an employer terminates a worker from the payroll, the worker's unpaid wages are due on the next regular payday, or within 2 weeks of the date of termination, whichever is sooner.

PAYMENT BY DEBIT CARD — Employers who elect to pay wages with a payroll debit card must comply with federal rules against compulsory use of electronic fund transfers as a condition of employment. Additionally, the employer must allow a worker at least one means of accessing withdrawals per pay period at no cost to the employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). This agency may assist workers in trying to resolve unpaid wage claims. A form for that purpose is available on the Department's website, at

dol.nebraska.gov/LaborStandards/WageComplaint/WageComplaintForm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — The Wage Payment and Collection Act is enforceable only in civil court. Any worker who has not received full pay within 30 days of the regular designated or agreed-on payday may file suit against the employer, through a private attorney or public legal service provider. If the court upholds the claim, the worker is entitled to recover the full amount of the unpaid wages, plus court costs and attorney's fees.

NEBRASKA REVENUE ACT OF 1967

STATUTORY CITATION: Neb. Rev. Stat. §§ 77-2701 – 77-27,135.01

GENERAL SUMMARY: The Nebraska Revenue Act imposes a tax on the income of every resident of the state, and on the income of non-residents which is derived from sources within the state, including earnings from employment. In general, every employer transacting business in Nebraska and making payment of any wages subject to federal income tax withholding, must also deduct and withhold state income taxes from such wages.

No later than the following February 15 — or within 30 days after the last payment of wages, in the case of a worker whose job ended before the end of the year — the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Nebraska must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Division, Nebraska Department of Revenue, Lincoln, Nebraska 68509 (402-471-5913).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

		Г	Nevada	
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Nevada

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Nev. Rev. Stat. §§ 609.185 - 609.652

RELATED REGULATIONS: Nev. Admin. Code § 609.150

GENERAL SUMMARY: The Nevada child labor laws (1) forbid the employment of most children under the age of 14 without the written permission of a district judge, (2) prescribe maximum hours of employment for workers under the age of 16, (3) limit the employment of most workers under 14 to non-school hours, and (4) prohibit employment of minors under 16 in hazardous occupations, industries and establishments.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The general ban on employment of children under 14 years of age without the written consent of a district court judge *does not apply* to employment connected with farmwork.

MAXIMUM HOURS OF LABOR — The provision generally limiting employment of workers under 16 to 48 hours in any one week and 8 hours in any one day *does not apply* to work on a farm.

EMPLOYMENT DURING SCHOOL HOURS — In general, it is illegal for any person, firm or corporation to employ a child under 14 in any occupation other than as a motion picture performer during the hours in which the public schools of the school district where the child resides are in session.

HAZARDOUS EMPLOYMENT — Children under the age of 16 are barred from working in jobs identified in the statute or declared by the state labor commissioner to be hazardous. The only activity currently classified as hazardous that is commonly performed in agricultural establishments is the operation of certain mechanical equipment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). The Commissioner is charged with the enforcement of all labor laws in the state, including the child labor provisions. Representatives of the Commissioner may enter any place of employment in Nevada to inspect age documentation and question employees reported to be or suspected of being employed in violation of the child labor laws. Employers who employ children contrary to these provisions, and parents or guardians who permit children in their custody to be unlawfully employed, are guilty of a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Local school attendance officers, as well as representatives of the state superintendent of public instruction, are authorized to demand proof of age of any worker apparently under the age of 14 who is employed or permitted to work during local school hours. After formal notification of a violation, for each day in which school-hour employment of a child under 14 continues, the employer is subject to a fine of from \$5 to \$20.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 392.040 - 392.220

GENERAL SUMMARY: Each parent, guardian or other person in Nevada having control or charge of any child between the ages of 7 and 18 years must send the child to a public school (or its equivalent) for the entire term during which the school is in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provisions apply to children in the affected age range without regard to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced by the boards of trustees of the state's local school districts, through school attendance officers and comparable officials. During school hours, attendance officers are authorized to take into custody, without warrant, any child of compulsory school age who has been reported by school personnel to be absent without a valid excuse. The school board must investigate all charges against parents and guardians for failure to assure required attendance, and whenever a violation is confirmed, the clerk of the board or the attendance officer must file a criminal complaint and see that the charge is prosecuted.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

EQUAL EMPLOYMENT OPPORTUNITIES LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 613.310 - 613.435

GENERAL SUMMARY: Chapter 613 of the Nevada statutes contains provisions outlawing discriminatory employment practices on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin. The anti-discrimination provisions generally apply to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS: Among other prohibited acts, it is illegal for a covered employer (1) to refuse to hire a job applicant, to discharge an employee, or to discriminate in any other way against an individual with respect to compensation or terms of employment because of the individual's race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin, (2) to limit, segregate or classify employees, on any of these same grounds, in a way which would tend to deprive a person of employment opportunities or otherwise adversely affect the person's status as an employee, or (3) to print or publish any employment notice or advertisement which indicates a preference or limitation based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin, except where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition, or national origin is a bona fide occupational qualification for employment. Similar discriminatory acts by employment agencies and labor organizations are likewise unlawful.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nevada Equal Rights Commission, Nevada Department of Employment, Training and Rehabilitation, Las Vegas, Nevada 89104 (702-486-7161). Any person aggrieved by an unlawful employment practice such as those described above may file a complaint with the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Equal Rights Commission does not conclude, after investigation of a complaint and opportunity for hearing, that an illegal practice or act of employment discrimination has occurred, the complainant may apply to district court for relief, provided civil action is commenced no later than 180 days after the alleged practice or act occurred. In applying the 180-day limitation, the time during which the complaint was pending before the Commission is disregarded.

WAGE, HOUR, AND WAGE PAYMENT LAWS (EQUAL PAY)

STATUTORY CITATION: Nev. Rev. Stat. § 608.017

GENERAL SUMMARY: Chapter 608 of the Nevada statutes regulates wages, hours and wage payments in the state, and includes a provision outlawing wage discrimination on the basis of sex. The equal pay provision applies to all private employment in Nevada, without exception.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for any employer to pay lower wages to one employee than the wages paid to an employee of the opposite sex in the same establishment who performs equal work which requires equal skill, effort and responsibility and which is performed under similar working conditions. The payment of unequal wages is not deemed discriminatory where such wages are paid pursuant to a seniority system, a merit system, a compensation system under which wages are determined by the quality or quantity of production, or a wage differential based on factors other than gender.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). The Commissioner is empowered to investigate claims of discriminatory wages and to take legal action to enforce compliance. Employers who violate the equal pay provision are liable for the unpaid wages and are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MISCELLANEOUS EMPLOYMENT LAWS (COMPULSORY TRADE)

STATUTORY CITATION: Nev. Rev. Stat. § 613.140

GENERAL SUMMARY: Chapter 613 of the state statutes regulates employment practices in Nevada, and includes a provision prohibiting compulsory trade arrangements by employers. This provision generally applies equally to all occupations and industries in the state.

SPECIFIC TERMS AND CONDITIONS: Any employer or other person conducting business in Nevada who by coercion, intimidation, threats or undue influence compels or induces his or her employees to trade at any particular store is guilty of a misdemeanor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — A worker who has suffered damages as a result of an apparent violation of this provision should consult a private attorney or public legal service provider concerning possible civil action against the offending party.

HEALTH AND SAFETY

NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act requires virtually every employer in the state (1) to maintain a workplace that is free from recognized hazards that could cause death or serious physical harm to employees, (2) to furnish and use safety devices and workplace practices reasonably adequate to keep the place of employment safe, and (3) to take other steps to protect the life, safety and health of employees. The Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration covering roll-over protections on tractors and safety measures on other agricultural equipment (see entry, U.S. — Health & Safety — Workplace Safety). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). Representatives of NVOSHA are authorized to inspect any place of employment, either in response to a worker complaint or on the agency's own initiative, in order to assure compliance with the Act and the standards adopted under its authority. The agency will normally issue a citation to an employer found to have committed a violation, fixing a reasonable time for corrective action. Failure or refusal to respond to a citation or final order for abatement may lead to enforcement action in civil court and assessment of administrative fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment (see entry, U.S. — Health & Safety — Agricultural Field Sanitation). Nevada enforces these standards only on farm operations that employ more than 10 workers on any given day in hand-labor operations in the field, or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). Any worker or worker representative who believes a violation of the field sanitation provisions has occurred may request an investigation by notifying NVOSHA. If an inspection confirms failure to provide required sanitation facilities, the agency may issue a citation or notice to the employer involved. A final order for compliance is enforceable in civil court. Violators of the Act are subject to administrative fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 12, Part II

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration regulating temporary labor camps provided by employers for the use of their workers (see entry, U.S. — Housing — General Employee Housing Standards). Nevada's temporary labor camp standards apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). Any worker or worker representative who is aware of a violation of the temporary labor camp standards may request an investigation by notifying NVOSHA. If an inspection confirms failure to comply, the agency may issue a citation or notice to the employer involved. A final order for compliance is enforceable in civil court. Violators of the Act are subject to administrative fines assessed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATE SANITATION LAWS (CONSTRUCTION AND LABOR CAMPS)

STATUTORY CITATION: Nev. Rev. Stat. §§ 444.130 - 444.200

RELATED REGULATIONS: Nev. Admin. Code §§ 444.550 – 444.566

GENERAL SUMMARY: Chapter 444 of the state statutes regulates health and sanitation conditions at construction and labor camps in Nevada which house 5 or more employees, implicitly including agricultural workers. The state board of health has adopted detailed standards that such facilities are required to meet as a precondition for issuance of a permit to operate.

SPECIFIC TERMS AND CONDITIONS: Every labor camp that houses 5 or more employees must conform to the health and sanitation standards outlined below, and each such facility is subject to periodic inspection by state and local health authorities.

GENERAL STANDARDS — The structures and grounds must be maintained in a clean, safe and sanitary condition. There must be an adequate and convenient supply of water for drinking, cooking, bathing and laundry purposes.

LIVING AND SLEEPING QUARTERS — Sleeping areas must be maintained in clean condition, must provide occupants with effective shelter against the elements, and must be constructed in such a fashion as to assure each occupant an adequate supply of fresh air. The camp owner or operator is required to furnish each resident with a suitable bunk or bed and, if requested by the occupant, a mattress or equivalent sanitary bedding. There must be at least 35 to 40 square feet of floor space per worker in each sleeping area. Heating facilities that meet prescribed safety standards must be provided when a camp is operated during a season and in a climate requiring artificial heating.

COOKING AND EATING FACILITIES — Rooms and structures where food is cooked, prepared or served must be kept clean and sanitary, with doors and windows properly screened. Cookware, dishes and eating utensils must be kept in a clean, unbroken and sanitary condition. There must be facilities for safe storage and refrigeration of food.

TOILET FACILITIES — Every camp must be provided with convenient and suitable privies or other toilet facilities, maintained in a clean and sanitary state. Privies must be screened or otherwise fly-proof, and must be situated over a pit at least 2 feet deep.

BATHING FACILITIES — Convenient and suitable bathing facilities must be provided and maintained in sanitary condition, readily accessible to the living quarters. Where showers are provided for bathing, there must be at least one functioning showerhead for every 15 workers; where bathtubs are used, there must be at least one tub in good condition for every 5 workers. All bathing facilities must have adequate hot and cold water under pressure.

LAUNDRY FACILITIES — At least one laundry tray, wash tub or other laundry facility — equipped with hot and cold water — must be provided for every 10 workers or fraction thereof.

GARBAGE AND SEWAGE DISPOSAL — Covered receptacles for garbage and trash must be supplied by the camp operator, and the contents must be burned, buried or otherwise disposed of in such a way that the refuse does not become offensive or unsanitary. Drainage from kitchen sinks must be carried through a covered drain to a covered septic tank or other sanitary disposal system.

LIGHTING — All habitable rooms must be well lighted. Living, dining and toilet rooms must be equipped with ceiling- or wall-type light fixtures. Where electricity is unavailable, there must be at least one lamp provided for every 5 workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Environmental Health Section, Division of Public and Behavioral Health, Nevada Department of Health and Human Services, Carson City, Nevada 89701 (775-687-7533). Representatives of the Department are expressly authorized to enter, during normal business hours, any public or private property where a construction or labor camp is operated, and to inspect all such facilities and the accommodations and equipment connected therewith. Any camp found out of compliance with state standards is regarded as a public nuisance and will be given a reasonable time after written notice to correct the deficiencies. Failure to take corrective action may result in misdemeanor charges in district court against the individual or entity in charge of work in or at the camp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Local boards of health are vested with the same inspection and citation authority as exercised by the Department of Health and Human Services in enforcement of the labor camp provisions.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 612.010 - 612.760

GENERAL SUMMARY: The Unemployment Compensation Law provides for the payment of cash benefits to persons who are temporarily out of work and who have recent earnings from insured employment and meet other eligibility requirements. Benefits are financed by the collection of unemployment insurance contributions from Nevada employers, who pay into the state unemployment compensation fund a proportionate share based on each employer's tax rate and taxable wages. In general, an employer who pays \$225 or more in wages in any calendar quarter, and has at least one employee during that period, is obligated to pay UI contributions.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other employing unit that (1) paid cash agricultural wages of \$20,000 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 agricultural workers for some part of a day in 20 or more different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state fund. The standard rate of contributions is normally 2.95 percent of the wages paid to each employee during the calendar year, up to a per-worker wage limit equal to 66 ½/3 percent of the statewide average annual wage for covered employment for the preceding year.

ELIGIBILITY FOR BENEFITS —

Wage Requirements — To be eligible for UI benefits, an unemployed worker must, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, (1) have earned at least \$400 in the one quarter of the four-quarter base period in which wages were highest, and (2) meet *one or the other* of the following conditions:

- (a) Have total wages equal to or exceeding 11/2 times the high-quarter earnings.
- (b) Have wages in each of at least three of the four quarters of the base period.

Other Requirements — To receive unemployment benefits, an unemployed worker must (1) be filing a weekly claim as required, (2) be able to work and available for work, (3) be actively seeking work, (4) be willing to accept suitable work, (5) keep a weekly work search record, and (6) register for work, unless exempt by law.

AMOUNT OF BENEFITS — A person's weekly benefit amount is roughly equal to 1/25 of the worker's high-quarter earnings during the four-quarter base period, but in no case may the weekly benefit amount be less than \$16 or more than half of the statewide average weekly wage for the preceding year. Each eligible claimant who is unemployed in any week is entitled to a UI payment equal to the weekly benefit amount, minus 75 percent of any wages earned from part-time employment that week.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Security Division, Nevada Department of Employment, Training and Rehabilitation, Carson City, Nevada 89713 (775-684-0420). The Unemployment Compensation Law assigns the Division responsibility for the determination of employers' liability for UI contributions, the collection of contributions from liable employers, the determination of eligibility for benefits by unemployed workers, the payment of benefits, and the adjudication of employer and benefit appeals. UI claims may be filed by phone, at 888-890-8211, or online at http://ui.nv.gov/css.html.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O NEVADA INDUSTRIAL INSURANCE ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 616A.005 - 616D.620

GENERAL SUMMARY: Under the Nevada Industrial Insurance Act, every subject employer must provide compensation for all accidental personal injuries sustained by an employee which arise out of and in the course of employment. Compensation may include the payment of medical costs associated with the injury, and cash benefits to the worker or the worker's dependents for disability or death.

To meet the liability for compensation, an employer may either secure coverage through private insurance companies, join an association of self-insured employers, or qualify as a self-insured employer by establishing to the satisfaction of the state insurance commissioner that the employer has sufficient resources to make prompt payment of compensation and depositing with the commissioner a bond or other security of at least \$100,000. An employer's failure to obtain insurance may result in an order for immediate cessation of the employer's business operations, as well as criminal prosecution.

PROVISIONS APPLICABLE TO AGRICULTURE: The Nevada Industrial Insurance Act does not apply to anyone engaged in farm, dairy, agricultural or horticultural labor, unless the employer voluntarily agrees to furnish coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Section, Division of Industrial Relations, Nevada Department of Business and Industry, Carson City, Nevada 89703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O NEVADA OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 617.010 - 617.510

GENERAL SUMMARY: The Nevada Occupational Diseases Act makes most employers in the state liable for the payment of compensation for occupational diseases sustained by their employees which arise out of and in the course of their employment. Every covered worker who is disabled because of an occupational disease, or the dependents of a worker whose death is caused by such a disease, are entitled to payment of the associated medical expenses, cash disability benefits, and death benefits, as the facts may warrant.

Employers may meet their liability for occupational disease compensation by securing coverage through private insurance companies, joining an association of self-insured employers, or qualifying as a self-insured employer by establishing to the satisfaction of the state insurance commissioner that the employer has sufficient resources to make prompt payment of compensation. The Act prescribes both civil and criminal penalties for failure by an employer to secure and provide occupational disease compensation as required.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where coverage is provided by the employer voluntarily, the Nevada Occupational Diseases Act **does not apply** to anyone engaged in farm, dairy, agricultural or horticultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Section, Division of Industrial Relations, Nevada Department of Business and Industry, Carson City, Nevada 89703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 611.020 - 611.320

GENERAL SUMMARY: Chapter 611 of the state statutes regulates the business activities of persons, firms and other entities that, for a fee, furnish information to job-seekers enabling them to secure employment, furnish information to employers enabling them to obtain workers, or maintain a record of individuals seeking employment or workers. The term "employment agency" may include certain farm labor contractors, but it does not include employers who procure their own workers or the agents of such employers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may engage in the activities of an employment agency, as defined briefly above, without first obtaining a license from the state to do so.

BOND — Before a license is issued, the applicant must deposit with the state enforcement agency a \$1,000 bond or equivalent security, conditioned on compliance with the employment agency law and payable to the people of the state in the event of damages by misrepresentation, fraud, or the unlawful acts or omissions of the licensee in connection with the business for which the license is granted.

RECORDKEEPING — Every licensee must make, and retain for at least 2 years, a record of every worker who secures employment through the licensee's services. The record must include, in part, a copy of the contract between the worker and the employment agent, and the receipt given to the worker for any fees charged by the agent.

PROHIBITED PRACTICES — Among other unlawful acts, it is illegal for an employment agency or agent (1) to publish or circulate any false, fraudulent or misleading information concerning employment or labor, or (2) to send a worker to any place of employment where a strike, lockout or similar labor dispute is in progress without first advising the worker of that fact in writing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). In addition to its employment agency licensing function, this agency is responsible for monitoring licensees' business activities and investigating complaints involving employment agencies in the state. On behalf of a complainant, the agency is authorized to bring action on the bond of any licensee against whom a claim or suit has been filed, for damages arising from the licensee's business. The law also prescribes criminal penalties for violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MISCELLANEOUS EMPLOYMENT LAWS (MISREPRESENTATION IN RECRUITMENT)

STATUTORY CITATION: Nev. Rev. Stat. § 613.010

GENERAL SUMMARY: Chapter 613 of the state statutes regulates employment practices in Nevada, and includes a provision restricting certain forms of job recruitment. This provision generally applies equally to all occupations and industries in the state.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for anyone doing business in Nevada to induce or persuade workers to move from one place of employment to another, or to bring workers into the state for employment of any kind, by means of misrepresentation, false advertising or false pretenses concerning the type of work to be done, the amount or kind of compensation to be paid, the sanitary facilities or other job conditions, or the existence or non-existence of a strike or other labor dispute at the job site.

Violation of this provision is classed as a gross misdemeanor and may be prosecuted in criminal court. Likewise, any worker recruited in such a fashion is entitled to recover all damages sustained as a consequence, in a civil action against the party or parties responsible.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*

PRIVATE CIVIL ACTION — A worker who has suffered damages as a result of an apparent violation of this provision should consult a private attorney or public legal service provider concerning possible civil action against the offending party.

PESTICIDES AND AGRICULTURAL CHEMICALS

CUSTOM PESTICIDE APPLICATION LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 555.2605 – 555.470

RELATED REGULATIONS: Nev. Admin. Code §§ 555.250 - 555.700

GENERAL SUMMARY: Chapter 555 of the state statutes contains provisions which regulate the custom application of pesticides in Nevada, in part by requiring the licensing of individuals engaged in pest control operations and the certification of users of restricted-use pesticides. The state agriculture department is authorized to adopt related regulatory provisions consistent with statutory intent.

SPECIFIC TERMS AND CONDITIONS

LICENSING — In general, no one may engage in pest control activities in Nevada without a license to do so issued by the state. Among other qualifications, an applicant for a pest control license must have at least 2 years' practical pest control experience, or an equivalent combination of education and experience. Issuance of a license is also contingent on the applicant's presentation of proof of bonding or public liability and property damage insurance in an amount not less than \$50,000. In addition, drift insurance may be required whenever the applicant intends or expects to employ pesticides that are hazardous to humans, livestock, crops or wildlife.

CERTIFICATION — Aside from the licensing requirement, anyone who intends to use or supervise the use of a restricted-use pesticide must first obtain a certificate from the state authorizing such activity. Certification is conditioned on a finding by the state enforcement agency that the applicant has adequate knowledge concerning the proper use and application of such materials, and of the hazards involved and precautions to be taken in connection with their use.

RECORDKEEPING — Persons who, for hire, apply pesticides to cropland using ground equipment or apply pesticides by aircraft are required to keep a record of each property treated. The record must include the date of treatment, the start and end times, the name of the person for whom the pesticide was applied, the county where the treatment took place, the crop involved, the number of units treated, the material and dosage applied, the purpose for applying pesticides, the temperature and wind velocity at the start and end of treatment, and the name of the applicator or pilot.

PROHIBITED ACTS — Among other grounds for suspension, modification or revocation of licensing and certification, it is unlawful for pesticide applicators in the state (1) to operate faulty or unsafe equipment, (2) to apply pesticides in a faulty, careless or negligent manner, (3) to engage in pesticide control activities not authorized under the class of license or certificate held, or in violation of its restrictions, (4) to continue to operate when the required insurance or bonding has expired or been canceled, (5) to fail or neglect to keep required records or make required reports, or (6) to apply a pesticide product in a manner inconsistent with its labeling or contrary to other restrictions imposed by the state agency.

EXEMPTION OF FARMER-OWNERS — Except with respect to the use of restricted-use products, the licensing and other requirements of the pesticide application laws do not apply to any farmer-owner of ground equipment applying pesticides on his or her own property, or on adjacent property for the accommodation of neighbors for agricultural purposes, as long as the farmer-owner does not regularly engage in pesticide application for hire or offer such services to the general public.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Plant Industry Division, Nevada Department of Agriculture, Sparks, Nevada 89431 (775-353-3729). The Department is responsible for the licensing and certification of pesticide applicators in the state, and for assuring their compliance with the standards and duties imposed by these provisions. Inspectors from the Department may enter any public or private property at reasonable times for the purpose of inspecting, auditing, sampling or monitoring any aircraft, ground equipment, records, storage areas, pesticides, pesticide application operations, disposal operations, or other activities subject to regulation by the Department. On receipt of a verified complaint, the Department may investigate any loss or damage resulting from the application of any pesticide by a licensed pest control operator, generally provided that the complaint is filed within 60 days from the time the loss or damage becomes known to the complainant. In addition to suspension or revocation of the applicant's license or certificate, violators are subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Nev. Rev. Stat. § 618.380

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: Apart from generally obliging employers in the state to establish and maintain a safe workplace, the Nevada Occupational Safety and Health Act requires most employers to notify any worker who has been exposed to toxic materials or harmful physical agents on the job, in concentrations or at levels which exceed those prescribed by an applicable state occupational safety and health standard, and to inform the worker of any action being taken to correct the condition.

PROVISIONS APPLICABLE TO AGRICULTURE: With authority under the state occupational safety and health law, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). A covered worker who believes that he or she is being or has been exposed to a toxic material in the workplace, and who has been denied notification or related information by the employer involved, should contact NVOSHA.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration for the storage and handling of anhydrous ammonia, a hazardous and commonly used agricultural fertilizer (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

TRANSPORTATION

MOTOR CARRIER REGULATION AND LICENSING LAWS (PERMIT FOR EMPLOYEE TRANSPORTATION)

STATUTORY CITATION: Nev. Rev. Stat. § 706.749

GENERAL SUMMARY: The state motor carrier laws generally exempt employers transporting workers between their homes and the place of employment from the regulatory provisions applicable to common carriers, but impose certain permit requirements and fee limitations on such transportation providers in lieu thereof.

SPECIFIC TERMS AND CONDITIONS

PERMITS — Any employer (implicitly including a farm operator or farm labor contractor) who transports workers between their job site and their homes or central parking areas must obtain an annual permit to do so from the state. The permit application must indicate the employer's name, the places where workers will be picked up and discharged, the location of the workplace or job sites, identification of the vehicle or vehicles to be used, and the amount of any charges to be made for transportation service. The permit requires payment of an annual \$10 fee for each vehicle regularly used to transport workers.

CHARGES — Any fees or charges for use of the service by workers may not exceed an amount required to amortize the cost of the vehicle and defray the cost of operating it.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Van Pool Registrar, Nevada Transportation Authority, Reno, Nevada 89502 (775-688-2800). The Authority is responsible, in large part, for administration and enforcement of the state motor carrier laws, including the issuance of permits to employers transporting workers to and from the workplace. Any violation of the permit requirement or the limitation on transportation charges may be reported to this agency.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

MINIMUM WAGE LAWS

STATUTORY CITATION: Nev. Const. Art. 15, § 16 and Nev. Rev. Stat. §§ 608.250 - 608.290

RELATED REGULATIONS: Nev. Admin. Code §§ 608.100 - 608.108

GENERAL SUMMARY: Under provisions in the state constitution, most Nevada employers who provide their employees with certain defined health benefits are required to pay their employees who are age 18 and over no less than \$7.25 per hour. Employers who do not provide such benefits must pay their adult employees at least \$8.25 an hour.

These rates are adjusted annually to track changes in the federal minimum wage or the cost of living, whichever is greater. The revised rates are published on April 1 each year and take effect on the following July 1.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers age 18 and over are entitled to the applicable minimum wage, but only if they work for an employer who used more than 500 worker-days of agricultural labor in one or more calendar quarters of the preceding calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Employers are prohibited from discharging an employee, reducing an employee's wages, or otherwise discriminating against an employee for using any civil remedies to enforce these provisions, or for asserting any other rights under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). Any worker who has been paid less than the minimum wage applicable to the job performed may file a claim with the Commissioner, who is responsible for enforcing payment of the minimum wage by the employer. The Commissioner must report all violations to the respective district attorneys, who in turn must prosecute the employers involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — At any time within 2 years of an employer's failure to pay the required minimum wage, a worker may, through a private attorney or public legal service provider, bring suit to recover the unpaid wages.

○ WAGE, HOUR, AND WAGE PAYMENT LAWS (OVERTIME)

STATUTORY CITATION: Nev. Rev. Stat. § 608.018

GENERAL SUMMARY: Chapter 608 of the Nevada statutes includes an overtime provision which requires most employers in Nevada to pay 1¹/2 times an employee's regular wage whenever the employee works more than 40 hours in any scheduled workweek, or more than 8 hours in any workday (unless, by mutual agreement, the employee works a scheduled 10-hour day for 4 calendar days each week).

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime pay provision does not apply to agricultural employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE, HOUR, AND WAGE PAYMENT LAWS (MEAL AND REST PERIODS)

STATUTORY CITATION: Nev. Rev. Stat. § 608.019

RELATED REGULATIONS: Nev. Admin. Code § 608.145

GENERAL SUMMARY: Unless exempted either individually or by regulation applicable to a defined category of employers, an employer who has more than one worker at any job site may not employ such workers for a continuous period of 8 hours without providing a meal period of at least a half-hour; no span of less than 30 minutes interrupts a continuous period of work for purposes of this provision. Likewise, each such worker who is employed for $3^{\circ}/2$ hours or more on any given day is entitled to a compensated rest break of 10 minutes for every 4 hours or fraction thereof on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The right to meal and rest periods extends to agricultural workers on the same terms as workers in all other industries in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). A worker who is denied a meal period or a paid rest break as required under these provisions may file a complaint with the Commissioner, who is authorized to prosecute for enforcement through the local district attorney.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ WAGE, HOUR, AND WAGE PAYMENT LAWS (PAYMENT AND COLLECTION OF WAGES)

STATUTORY CITATION: Nev. Rev. Stat. §§ 608.016 - 608.195

RELATED REGULATIONS: Nev. Admin. Code §§ 608.115 - 608.160

GENERAL SUMMARY: Chapter 608 of the state statutes contains, along with other subject matter, provisions regulating paydays, frequency of wage payments, payment of wages at termination, method of payment, payroll recordkeeping, and charges for employer-provided meals.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must establish and maintain regular paydays and must post notices, in at least 2 conspicuous places where they can be seen by the workers, indicating the regular paydays and place of payment.

FREQUENCY OF PAYMENT — All wages of workers in private employment are due and payable no less often than semi-monthly. Wages earned prior to the 1st day of any month are payable no later than 8:00 a.m. on the 15th day of that month, while compensation earned prior to the 16th are payable no later than 8:00 a.m. on the last day of the month.

PAYMENT AT TERMINATION — Whenever an employer discharges a worker, the worker's final wages are due and payable immediately. The unpaid compensation of a worker who quits must be paid no later than the next regular payday, or 7 days after the resignation, whichever is earlier.

METHOD OF PAYMENT — In general, wages must be paid (1) in lawful U.S. money, (2) by negotiable check payable without discount in lawful U.S. money, or (3) by electronic payment such as direct deposit or debit card. Electronic payment may be used only if the employee can obtain immediate payment in full, the employee receives at least one free transaction per pay period, the alternative location of payment is easily accessible, there are no other requirements or restrictions one would deem unreasonable or inconvenient, and the use of electronic payment is optional for the employee.

RECORDKEEPING — Every employer must maintain payroll records on each employee for each payroll period, including (1) gross cash wages, (2) deductions, (3) net cash wages, (4) hours employed per day and total hours for the pay period, and (5) the date of payment. Required payroll data must be furnished to the worker within 10 days of any such request.

MEAL CHARGES — The statutory provision which limits to \$1.50 per day the allowable deduction from wages for any meals provided to the worker by the employer *does not apply* to agricultural employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). A claim for unpaid wages, or a complaint charging any other violation of the wage payment and collection provisions, may be submitted to the Commissioner, who is obligated to assist in resolving the claim or complaint. The Commissioner is required to refer all violations to the respective district attorneys for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	Other			
	Fair Employment Practices	•	Law Against Discrimination	450
	Wage Discrimination	0	Equal Pay Law	450
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Health	General Workplace Sanitation			
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	Unemployment Insurance	•	Unemployment Compensation Law	451
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Insurance and Compensation	Disability Insurance			
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	Other			

New Hampshire

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	General Application Standards	•	Pesticide Control Law	452
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CHILD LABOR

YOUTH EMPLOYMENT LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 276-A:1 – 276-A:26

RELATED REGULATIONS: N.H. Code Admin. R. Lab. 1000

GENERAL SUMMARY: The Youth Employment Law establishes a minimum lawful employment age of 12 in New Hampshire, restricts the total hours and time of day during which minors may be employed, limits employment in certain hazardous occupations, and requires issuance of a youth employment certificate as a precondition on hiring minors in most industries.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — Except in employment that is brief or intermittent, or that produces little or sporadic income, generally no one under 12 years of age may be employed or permitted to work in any occupation, including agriculture.

HOUR RESTRICTIONS — As a rule, no one under the age of 16 may work earlier than 7:00 a.m. or later than 9:00 p.m., or for more than 3 hours a day on a school day, 8 hours on a non-school day, 23 hours a week during school weeks, and 48 hours a week during vacations. Likewise, 16- and 17-year-olds who are enrolled in school may not work for more than 6 consecutive days or more than 30 hours during a school week, nor for more than 6 consecutive days or 48 hours in any one week during school vacation periods.

Agriculture Exception — In response to a written application from an agricultural employer seeking a variance for a particular youth working in a specified agricultural operation, the hour restrictions may be suspended by the state enforcement agency.

HAZARDOUS OCCUPATIONS — With few exceptions, it is unlawful to employ a person under 16 in logging operations, or to employ anyone under 18 in an occupation determined by the state agency to be hazardous. The agency has adopted the hazardous occupation standards established by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

EMPLOYMENT CERTIFICATES — The general ban on employment of minors under 18 without a youth employment certificate issued by the local school district **does not apply** to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). Investigators from the Department are directed to visit and inspect all workplaces in the state to assure compliance with the youth employment statute, and are authorized to serve warrants. Anyone who employs a minor in violation of these provisions, and any parent, grandparent or guardian who allows a child in his or her custody to work unlawfully, is guilty of a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Truant officers employed by the local school districts exercise the same authority to enter and inspect places of employment as does the Department of Labor in enforcing the Youth Employment Law.

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: N.H. Rev. Stat. §§ 193:1 – 193:8

GENERAL SUMMARY: With only narrow exceptions, every child who has reached the age of 6 on or before September 30 in a particular school year, but who is not yet 18, must attend a public or approved private school throughout the time the public schools are in session that year. Every person having custody of such a child must cause the child to attend school during the entire school year.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provisions apply without regard to the employment status or occupational classification of the child or the child's custodian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local school boards, which must formally advise parents and guardians of the requirements of the law in all suspected cases of non-compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

LAW AGAINST DISCRIMINATION

STATUTORY CITATION: N.H. Rev. Stat. §§ 354-A:1 – 354-A:26

GENERAL SUMMARY: The Law Against Discrimination declares, in part, that the opportunity to obtain employment without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability, national origin, or sexual orientation is a civil right. The employment provisions in the Act, which are applicable to most agricultural and non-agricultural employers with 6 or more employees, defines certain unlawful employment practices and establishes an administrative framework for resolving discrimination charges lodged by job applicants and employees.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY PRACTICES — Among other unlawful acts described in the statute, it is generally illegal for an employer:

- (1) To refuse to hire a job applicant, to discharge an employee, or to discriminate against an applicant or employee in the terms, conditions or privileges of employment because of the individual's age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless such distinction is based on a bona fide occupational qualification.
- (2) To print or circulate any employment-related statement or advertisement, or to use any type of job application form, which directly or indirectly expresses any limitation, preference or discrimination on grounds of age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless based on a bona fide occupational qualification.

Similar or comparable acts committed by a labor organization or employment agency are also forbidden.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory practice may file a written complaint with the state enforcement agency within 180 days after the alleged act occurred. If the agency's initial investigation finds sufficient evidence of a violation, the agency must try to eliminate the practice complained of by conference, conciliation and persuasion, but whenever informal efforts are unsuccessful or other circumstances warrant, the agency must call a hearing to allow the employer or other respondent to answer the charges formally. A finding that the respondent did, in fact, engage in unlawful discrimination will result in an order requiring the employer to halt the illegal practice and take appropriate affirmative action to correct any damage suffered by the complainant.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Commission for Human Rights, Concord, New Hampshire 03301 (603-271-2767). In monitoring compliance with the Law Against Discrimination, the Commission is authorized to receive, investigate and rule on complaints alleging violations. This authority includes the power to hold hearings, subpoena documents and witnesses, and take sworn testimony. Besides being subject to administrative orders for affirmative corrective action (which may involve such measures as hiring, reinstatement and back pay), employers and other entities that violate these provisions are subject to criminal prosecution. Under New Hampshire state law, individuals can be held personally liable for aiding and abetting discriminatory conduct.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — U.S. Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). A worker who files a discrimination complaint with the state Commission on Human Rights against a New Hampshire employer who has 15 or more employees preserves his or her rights under the federal law enforced by EEOC (see entry, U.S. — Civil Rights — Fair Employment Practices).

O EQUAL PAY LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 275:36 – 275:41-d

GENERAL SUMMARY: It is unlawful for most New Hampshire employers to discriminate between employees on the basis of sex, by paying employees of one sex at a rate less than the rate paid to employees of the other sex for equal work that requires equal skill, effort and responsibility and is performed under similar working conditions. Wage variations are permitted, however, when based on a seniority system, a merit or performance-based system, a system that measures earnings by quantity or quality of production, expertise, shift differentials, or a demonstrable factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law **does not apply** to persons engaged in agricultural service.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: N.H. Rev. Stat. §§ 275-E:1 - 275-E:9

RELATED REGULATIONS: N.H. Code Admin. R. Lab. 900

GENERAL SUMMARY: The Whistleblowers' Protection Act makes it illegal for an employer to harass, abuse, intimidate, discharge, threaten or otherwise discriminate against an employee because the employee (1) in good faith reports what he or she reasonably believes is a violation of a state or federal law or regulation, (2) objects to or refuses to participate in an activity that the employee, in good faith, believes is a violation of the law, (3) participates in an investigation, hearing or inquiry conducted by a governmental entity, including a court action, concerning allegations that the employer has violated a law, or (4) refuses to carry out a directive that violates a state or federal law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies to agricultural employers and protects agricultural workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). An employee who alleges a rights violation under the Whistleblower Protection Act, after making a reasonable attempt to address the adverse action using a grievance procedure or similar process available at the workplace, may request a hearing by the state labor commissioner's office. If a violation is confirmed, the agency may order reinstatement of the employee, payment of back wages, or other appropriate relief

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 282-A:1 - 282-A:180

GENERAL SUMMARY: New Hampshire's unemployment compensation law provides for the payment of periodic cash benefits to workers who are temporarily out of work and who have earned sufficient wage credits from insured employment and meet other eligibility criteria. Unemployment benefits are financed by contributions paid by most employers in the state, assessed in proportion to their taxable payroll.

With some exceptions, employers are required to pay UI taxes if they (1) employ one or more individuals for some portion of a day in each of 20 different calendar weeks in either the current or preceding calendar year, or (2) pay gross wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Liability for payment of UI taxes extends only to those agricultural employers who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed in agricultural labor 10 or more workers. Only the first \$14,000 of wages paid in a calendar year to each worker by a covered employer is subject to state UI taxation.

ELIGIBILITY FOR BENEFITS — Subject to numerous other limitations, workers who meet the law's earnings requirements, and who are without work but are available for and actively seeking employment, are eligible for weekly unemployment insurance benefits. Generally, to qualify for benefits in New Hampshire, a worker must have earned at least \$1,400 in each of two calendar quarters during the first four of the last five completed calendar quarters immediately preceding the claim (the "base period").

AMOUNT OF BENEFITS — For eligible workers who are totally unemployed, the amount of the weekly benefits is specified in the statute and depends on the worker's total annual earnings over the four-quarter base period; the amount currently ranges from \$32 to \$427 per week. Weekly benefit payments are generally equal to the weekly benefit amount, minus any wages received that week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Compensation Bureau, New Hampshire Employment Security, Concord, New Hampshire 03301 (603-228-4031). This agency is responsible for determining employers' liability for payment of unemployment insurance contributions, for collecting contributions from liable employers, for processing UI claims and appeals, and for issuing UI benefit payments. Unemployed workers who believe they are eligible for benefits may file a claim online, at nhuis.nh.gov/claimant/login.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 281-A:1 - 281-A:70

GENERAL SUMMARY: The Workers' Compensation Law generally requires employers in New Hampshire who have one or more employees to provide compensation for accidental personal injury, occupational disease or death of any employee which arises out of and in the course of employment. Among the benefits to which covered workers and their dependents are entitled in the event of a compensable injury, illness or death are (1) weekly cash payments in lieu of lost wages, and (2) payment of medical, hospital and remedial care related to the injury.

Subject employers generally must secure compensation by (1) purchasing a prescribed workers' compensation insurance policy from a commercial carrier, or (2) furnishing satisfactory proof to the state administering agency of financial ability to pay the required compensation directly. An employer who fails to comply with the obligation to secure compensation is subject to civil money penalties and suspension of the right to do business in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law applies to agricultural employers with one or more employees, protecting agricultural workers to the same extent as workers in covered non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). The Department is responsible for enforcing compliance with the employer's obligation to secure and pay required compensation for job-connected injuries, and for resolving disputes involving eligibility for and continued payment of workers' compensation benefits. A worker who is injured on the job should report the injury to the employer as soon as possible; under normal circumstances, a claim for compensation is barred unless notice is given within 2 years from the date of injury. In every case of injury or death reported by a worker or by the worker's dependents, the insurance carrier or the employer must either commence timely payment of compensation, or provide the claimant with a written notice showing a valid reason for denial and explaining the claimant's right to petition the Department for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE CONTROL LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 - 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 100 – 1100

GENERAL SUMMARY: The New Hampshire pesticide control law regulates the use of pesticides in the state, in part by requiring the registration and licensing of applicators and by defining numerous illegal acts related to the application and other use of pest control compounds. The state pesticide control board has explicit authority to adopt administrative rules further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION CERTIFICATES — No one in New Hampshire may engage in the commercial application of pesticides, or in the private application of restricted-use pesticides, without a valid certificate of registration issued by the state. Every person who applies for a registration certificate is required to demonstrate by examination or comparable means his or her competency to use pesticides in accordance with state standards, and commercial for-hire applicators must provide proof of financial responsibility covering potential damages from the applicant's pest control operations.

PERMITS — In general, no one other than a commercial applicator may apply pesticides in New Hampshire without first obtaining a written permit from the state. Issuance of such a permit is contingent on the applicant's demonstration of ability to use pesticides safely.

APPLICATOR RECORDKEEPING — Both commercial and private applicators are required to make, and keep available for at least 2 years, a record of each application of pesticides. The record must include, among other entries, the site or crop treated and its location, the pesticide and formulation used, the dosage applied, the method of application, the date of application, and the target pest involved.

DAMAGE TO NON-TARGET AREAS — It is illegal for anyone to apply pesticides in a way that causes or could cause contamination of areas not targeted for treatment. Pesticides may not be applied by power equipment any time wind velocity would cause contamination of a non-target area.

PESTICIDE DISPOSAL — Unusable pesticides generally must be disposed of in an authorized solid waste or hazardous waste treatment storage disposal facility. Empty pesticide containers must be disposed of in accordance with prescribed procedures. Pesticide containers may not be used for any purpose not described on the product label.

PROHIBITED ACTS — Among numerous other unlawful practices cited in these provisions, it is illegal for anyone (1) to handle, transport or store pesticides in such a manner as to endanger humans, food, feed or the environment, or (2) to store or dispose of any pesticides or pesticide containers in a way that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550). The Department is responsible for issuing registration certificates and permits to pesticide applicators in the state, and for assuring their compliance with state standards governing use and application of such products. Agents of the Department are authorized to enter any public or private premises, among other purposes (1) to inspect equipment or aircraft used in the application of pesticides, (2) to inspect crops, animals and property exposed to pesticides, (3) to inspect pesticide storage and disposal areas, (4) to inspect and copy records related to pesticide distribution, storage and use, and (5) to obtain soil and water samples believed to have been exposed to pesticides. Anyone who violates any provision of the pesticide control laws, the associated regulations, or a Department order is guilty of a criminal offense and is also liable for a civil money penalty of up to \$5,000 and an administrative fine of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDE CONTROL LAW (AERIAL APPLICATION)

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 - 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 506.01 - 506.10 and 901.01

GENERAL SUMMARY: New Hampshire's pesticide control law includes a provision explicitly requiring certain notifications prior to application of pesticides from the air, and authorizes the state pesticide control board to establish rules regulating the aircraft application of pesticides.

SPECIFIC TERMS AND CONDITIONS

PRIOR APPROVAL OF AERIAL APPLICATIONS — No one may apply pesticides by aircraft without first obtaining a permit to do so from the enforcement agency. The permit application must include, among other information, (1) the identities of both the pesticide applicator and the person requesting the service, (2) a description identifying the target organism, the method of application, the pesticide product to be used, and the number and dates of the proposed applications, (3) a detailed map of the treatment area, and (4) a list of all property owners having property within 1,320 feet of the treatment area.

PUBLIC NOTIFICATIONS —

- (1) If the proposed aerial application is in a non-residential area, at the same time that the permit application is submitted to the state pesticide enforcement agency, the applicant must publish a notice in a general-circulation newspaper in the affected area, and provide written notice to property owners within 1,320 feet of the treatment area and to certain public officials, summarizing the proposed aerial treatment and advising all parties that they have 15 days from the date of the notice to submit written comments to the state agency.
- (2) If residential, commercial or institutional buildings are located within 200 feet of the proposed treatment area, a written notice of any impending aerial pesticide application must be submitted to all persons owning, inhabiting or using the properties, no sooner than 60 days and no later than 14 days before the application is to begin. The notice must include a description of the treatment area, the name of and contact information for the applicator or the person requesting the service, the purpose of the application, the pesticides to be used, the date or range of dates during which the treatment will take place, the telephone number of the state pesticide enforcement agency, the telephone number of the New Hampshire Poison Control Center, and the public-related precautions that appear on the pesticide product label.

RECORDKEEPING — As are other classes of commercial applicators, aerial pesticide applicators are required to make and preserve a record of each application of pesticides, as described in the previous entry. In addition, however, aerial operators must submit each such record to the state agency within 7 days following the day of application.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550). Anyone who violates any provision of the pesticide control law, the associated regulations, or a Department order is guilty of a criminal offense and is also liable for a civil money penalty of up to \$5,000 and an administrative fine of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDE CONTROL LAW (WORKER PROTECTION)

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 - 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 1100

GENERAL SUMMARY: New Hampshire's pesticide control law authorizes the state pesticide control board to adopt specific rules for the protection of people and property against the adverse effects of pesticides.

SPECIFIC TERMS AND CONDITIONS: Under the rulemaking authority mentioned above, the pesticide control board has adopted standards requiring pesticide safety training for workers exposed or potentially exposed to agricultural pesticides in the field.

TRAINING — Agricultural employers who use any pesticide product whose label references EPA's worker protection standard (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards) are required to provide pesticide safety training to their workers. The training requirement — which applies to workers who mix, load or apply pesticides and to those who may come into contact with pesticides in the field — must conform with both EPA and state regulatory requirements.

VERIFICATION OF TRAINING — Workers who complete training provided by a qualified pesticide safety trainer must receive a signed certificate confirming the date of training, the trainee identification number, the name of the trainer, and the location where the training was provided. The certificate is valid for 5 years.

RECORDKEEPING — Each qualified safety trainer is required to keep a record for each worker he or she trains. The record must include (1) the name and signature of the worker, (2) the ID number assigned to the worker, (3) the training date, (4) the address of the training location, (5) the type of training received, (6) the trainer's name and certification number, (7) the method of training and the materials used, and (8) a statement signed by the trainer affirming that all training was performed in accordance with EPA requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKER'S RIGHT TO KNOW ACT

STATUTORY CITATION: N.H. Rev. Stat. §§ 277-A:1 – 277-A:10

GENERAL SUMMARY: The Worker's Right to Know Act requires most New Hampshire employers to provide their employees with information concerning the nature of the toxic substances to which they may be exposed on the job and to take other steps to protect their employees from the risks associated with such substances. The Act applies to virtually all employees and workplaces in the state, other than domestic or casual laborers at the employer's place of residence.

SPECIFIC TERMS AND CONDITIONS: Every employer whose workers handle, use or are otherwise exposed during the course of their employment to any toxic substance (potentially including pesticides and other agricultural chemicals) must, among other obligations imposed by the Act, comply with these duties:

- (1) Obtain, and make available for examination and copying by employees, a safety data sheet for each toxic substance or toxic mixture to which a worker may be exposed on the job. The safety data sheet is a document containing prescribed information such as the name of the substance, its hazards and health effects, the potential routes and symptoms of overexposure, the precautions to be followed in its use, and emergency and first-aid procedures.
- (2) Post a conspicuous written warning at the worksite identifying each toxic substance to which the workers may be exposed, the hazards involved, symptoms of exposure and overexposure, the proper conditions for safe use and exposure, cleanup procedures, and emergency measures.
- (3) Post a notice informing employees of the availability of a safety data sheet on each such substance in the workplace, and supply a copy of the data sheet to any worker within 72 hours of the worker's request. If the information is not received within 5 working days, the employee may refuse to work with or around the material until such time as the employer complies with the request.
- (4) Conduct an education and training program during the first month of employment for all workers routinely exposed to toxic substances. The program must inform workers of the nature of the substances to which they will be exposed, prescribe appropriate handling procedures, and advise them of the potential risks involved.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced any form of retaliation by an employer in connection with the Right to Know Act may file a complaint at any time within 30 days after learning of the violation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). If the Department receives a complaint against a particular employer or has other cause to believe that the Worker's Right to Know Act is being violated, Department personnel may enter and inspect the premises of the employer's place of business and take samples of any unknown substance in order to check compliance. Anyone who fails to abide by the Act is subject to a penalty of up to \$2,500 for each violation, enforceable by the Department in a civil action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 279:1 - 279:29

GENERAL SUMMARY: With some exceptions, no person, firm or corporation may employ any worker at an hourly pay rate lower than the federal minimum wage, which is currently \$7.25 per hour. Employers subject to the state minimum wage law are also required to keep true and accurate records of the hours and wages of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage does not apply to employees engaged in farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ EMPLOYEE PROTECTIVE LEGISLATION (DAY'S WORK AND DAY OF REST)

STATUTORY CITATION: N.H. Rev. Stat. §§ 275:30 – 275:35

GENERAL SUMMARY: Chapter 275 of the state statutes contains provisions defining a day's work, granting employees a right to meal periods, and limiting employment on Sundays.

PROVISIONS APPLICABLE TO AGRICULTURE

DAY'S WORK — In all contracts relating to labor (including agricultural services), 8 hours is deemed a day's work, unless otherwise agreed to by the parties.

MEAL PERIODS — In general, no farm operator or any other employer in New Hampshire may require an employee to work more than 5 consecutive hours without a half-hour lunch or eating period.

MAKING UP LOST TIME — An employer may not require an employee in any occupation to work more hours in any one day than allowed by law, in order to make up time lost to a legal holiday.

SUNDAY WORK — The provision which generally prohibits forcing an employee to work on Sunday, unless the employee is allowed 24 hours off in the ensuing six-day interval, *does not apply* to employees engaged in farm services.

DAY OF REST — The provision requiring employers to post at the workplace a list of the employees who are required or allowed to work on Sunday, and to designate an alternative day of rest for those employees, *does not apply* to employees engaged in farm services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS

STATUTORY CITATION: N.H. Rev. Stat. §§ 275:42 - 275:55

GENERAL SUMMARY: Chapter 275 of the state statutes includes provisions regulating the frequency of paydays, the medium of payment, final wages, wage withholding, and disclosure of pay conditions. With certain exceptions, the wage payment provisions apply to employers with at least one employee.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast to non-agricultural coverage, the state wage payment laws summarized below apply only to those farm operators and other agricultural establishments that employ 5 or more workers in farm labor.

PAY PERIODS AND PAYDAYS — Every covered employer generally must pay wages no less frequently than once a week, within 8 days (including Sunday) after the end of the week in which the work is performed, and on regular paydays designated in advance by the employer.

MEDIUM OF PAYMENT — Wages normally must be paid (1) in lawful U.S. currency, (2) by electronic fund transfer, (3) by direct deposit to a bank designated by the employee, (4) with a payroll or debit-type card, or (5) by check, drawn on a bank convenient to the place of employment and where suitable arrangements have been made to allow workers to cash their payroll checks at full value. If wages are paid using a payroll card, the employer must provide the employee at least one free withdrawal of any portion or all of the balance on the card per pay period, and none of the costs of the payroll card account may be passed on to the employee.

FINAL WAGES — Whenever an employer lays off or discharges a worker, the employer must pay the worker's final wages in full within 72 hours of termination. A worker who quits, on the other hand, is entitled to receive final pay no later than the next regular payday, or within 72 hours if the worker gave at least one pay period's notice of intention to quit.

WAGE WITHHOLDING — No employer may withhold or divert any portion of a worker's wages unless required or authorized to do so by state or federal law, or the employer has written authorization from the worker to make such deduction for a lawful purpose and for the worker's own benefit. Employers are obligated to furnish each employee with a statement of deductions from pay for each pay period in which such deductions are made.

DISCLOSURE — At the time of hiring, each worker must be notified by the employer as to the rate of pay and the day and place of payment. The employer must also notify each worker in advance of any changes in these terms.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). To enforce the state wage payment laws, representatives of the Department are authorized to enter and inspect workplaces, question employees, and review payroll records in connection with alleged or reported violations. Any worker who has not been paid in conformity with these provisions may file a claim or complaint with the Department, which must notify the employer involved and afford an opportunity for a hearing; a complaint must be filed no later than 36 months from the date the wages were due. If the Department finds that a violation has occurred, it may issue an order for payment or other appropriate action, enforceable in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, a worker may elect to recover unpaid wages in a private civil action, represented by an attorney of the worker's own choice. In addition to liability for the unpaid wages, an employer who willfully or without good cause fails to pay a worker may be judged liable for liquidated damages.

→ WAGE PAYMENT LAWS (REQUIRED PAY)

STATUTORY CITATION: N.H. Rev. Stat. § 275:43-a

GENERAL SUMMARY: On any day in which an employee reports to work at the employer's request, the worker is generally entitled to not less than 2 hours' pay at the worker's regular rate, unless the employer made a good-faith effort to notify the worker not to report that day. With certain exceptions, this provision applies to employers with at least one employee.

PROVISIONS APPLICABLE TO AGRICULTURE: The guaranteed pay provision applies to agricultural employers only to the extent that they have 5 or more employees performing agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). An employer's failure to pay the compensation required under this provision is treated as failure to pay any other wages due an employee. A worker who does not receive his or her pay may file a wage claim with the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As with any other claim for unpaid wages, the pay guarantee may be recovered in a civil suit against the employer involved, through a private attorney or public legal service provider.

New Jersey

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New Jersey

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:2-21.1 - 34:2-21.64

RELATED REGULATIONS: N.J. Admin. Code 12:58

GENERAL SUMMARY: With some exceptions, the New Jersey child labor laws (1) set a minimum age of 14 for lawful employment in the state, (2) restrict the working hours of minors under 18, (3) prohibit child labor in specified hazardous occupations, (4) prescribe the issuance of an employment certificate as a precondition on youth employment, (5) impose recordkeeping duties on employers of children, and (6) provide certain other employment protections to minors in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to the 14-year age threshold for employment in most other industries, children as young as 12 may be employed in agricultural pursuits, subject to the limitations described below.

WORKING HOURS — No one under the age of 18 years may be employed or permitted to work in agriculture for more than 10 hours in any one day, or for more than 6 days or 60 hours in any one week. On any school day, the combined time in school and on the job may not exceed 8 hours. There are no time-of-day restrictions on minors employed in agriculture.

HAZARDOUS OCCUPATIONS — In both agricultural and non-agricultural sectors, minors under 16 are forbidden to work in, about or in connection with power-driven machinery, or injurious quantities of toxic or noxious dusts or fumes (which may include certain agricultural chemicals). In addition, the use of power field choppers, power hay balers or mechanical corn pickers has been declared hazardous to minors under the age of 18 by the state labor commissioner.

LUNCH PERIODS — No minor under 18 may be employed or allowed to work in any occupation for more than 5 continuous hours without an interval of at least 30 minutes for lunch. No break of less than 30 minutes is deemed to interrupt a continuous period of work.

EMPLOYMENT PERMITS — While employers in most other industries are barred from hiring anyone under the age of 18 without an employment certificate, a special agricultural employment permit is a prerequisite for farmwork only by workers under 16. A special permit authorizing agricultural employment by such a child may be issued by the local school district upon application by the child's parent or other custodian, and a finding by school officials that the work will not interfere with the child's health or standing in school. The application must show the exact character of the work and the hours, wages and special conditions under which the work will be performed.

EMPLOYER RECORDKEEPING — The requirement that most employers keep a record of the name, address, birth date, hours worked, wages paid and other information on each employed minor under the age of 19 *does not apply* to the employment of minors in agriculture.

POSTING — The statutory provision that generally obligates employers of minors to conspicuously post a summary of the child labor laws, a list of occupations prohibited to minors, a schedule of working hours and meal periods, and a list of each minor employed at the establishment, *does not apply* to agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305). Inspectors and other authorized representatives of the Department may enter any workplace at any time to examine employment and age certificates, question workers, and conduct other enforcement-related activities under the state child labor laws. The Department is empowered to file and prosecute criminal complaints against any employer who employs a minor in violation of the child labor laws, and against any person who permits a minor in his or her control or custody to work in violation of those provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — School attendance officers and comparably authorized local officials may exercise the same inspection authority as agents of the Department of Labor in carrying out the child labor laws.

COMPULSORY EDUCATION LAWS

STATUTORY CITATION: N.J. Rev. Stat. §§ 18A:38-25 - 18A:38-36

GENERAL SUMMARY: Every parent, guardian or other person having custody and control of a child between the ages of 6 and 16 years must assure that the child regularly attends public school, or receives equivalent instruction, during the entire time the public schools in the local district are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment-related exceptions to the compulsory attendance provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory education laws are enforced by the local school districts, through attendance officers employed for that purpose, assisted by municipal and county law enforcement officers. Any such officer who finds a child between the ages of 6 and 16 who is truant is authorized to take the child into immediate custody and deliver the child to its parent, guardian or teacher. Parents of a truant child are initially given a warning concerning the consequences of non-compliance with the attendance provisions, willful or continued violation of which is punishable by a fine ranging from \$25 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW (ILLEGALLY EMPLOYED MINORS)

STATUTORY CITATION: N.J. Rev. Stat. § 34:15-10

GENERAL SUMMARY: With respect to a workers' compensation claim for a compensable injury or occupational disease of a minor under 14 years of age who was employed at the time of the injury or disease in violation of the child labor laws, or a minor between the ages of 14 and 18 who was employed or allowed to work without a required employment certificate or special permit or in an occupation prohibited at the minor's age by law, the child or the child's dependents are entitled to *twice* the dollar amount of compensation or death benefits that would normally be payable for such injury or disease under the workers' compensation law.

The employer alone, not the insurance carrier, is liable for the extra compensation payable in such cases.

PROVISIONS APPLICABLE TO AGRICULTURE: The provision requiring double compensation for a compensable injury of a minor employed in violation of the child labor laws applies to agricultural employment under the same terms as in other industries subject to the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515). The Division is responsible for assuring compliance with the workers' compensation law by subject employers. In case of a disagreement over a claim for compensation or payment of benefits, the worker or the worker's dependents must submit the claim to the Division, which is the appropriate forum for adjudicating disputes concerning questions of fact, the nature and effect of the injury, and the amount of compensation payable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

LAW AGAINST DISCRIMINATION

STATUTORY CITATION: N.J. Rev. Stat. §§ 10:5-1 - 10:5-42

GENERAL SUMMARY: The Law Against Discrimination, in part, affirms as a civil right that all persons in New Jersey have the opportunity to obtain employment without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, or gender identity or expression. The statute, which is applicable to most agricultural and non-agricultural employment other than domestic service, defines various prohibited discriminatory employment practices and establishes an administrative procedure for filing and resolving related complaints.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — With certain very narrow exceptions, it is illegal for an employer, because of an individual's race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, nationality, gender identity or expression, disability, atypical hereditary cellular or blood trait, liability for U.S. military service, or refusal to submit to a genetic test or reveal the results of a genetic test:

- To refuse to hire the individual.
- (2) To fire the individual.
- (3) To require the individual to retire, unless justified by legitimate factors other than age.

- (4) To discriminate against the individual in compensation or in the terms, conditions or privileges of employment.
- (5) To print or circulate any employment-related statement or advertisement, or use any form of job application, which expresses a limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality, pregnancy, sex, or liability of a job applicant for U.S. military service, unless such distinction is a bona fide occupational qualification.

Similar discriminatory acts by employment agencies and labor organizations are likewise prohibited.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the state enforcement agency, which is obligated to investigate the charges. If investigation finds probable cause to believe the allegations are true, the agency has 45 days from the date of such finding to eliminate the illegal practice informally. A formal hearing will be convened, however, to allow the employer or other respondent to answer the charges formally whenever conciliation is unsuccessful, and if evidence presented at the hearing confirms the occurrence of a violation, an order will be issued requiring appropriate corrective action by the respondent.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division on Civil Rights, Department of Law and Public Safety, Trenton, New Jersey 08625 (609-292-4605). In enforcing compliance with the Law Against Discrimination, the Department may receive complaints, conduct investigations, hold hearings, subpoena witnesses and documents, and take sworn testimony. In addition to affirmative action and other relief that may be granted a complainant under an administrative order or court judgment, the Department is authorized to assess money penalties of from \$2,000 to \$5,000 against anyone who violates any of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — If the state attorney general deems it in the public interest, the power to investigate complaints, conduct conciliation conferences, hold hearings and take testimony may be delegated to county or municipal civil rights offices where such agencies have been locally established. The findings and conclusions of local civil rights authorities are subject to review by the Division on Civil Rights.

PRIVATE CIVIL ACTION — As an alternative to the administrative complaint procedure outlined above, a worker may file a lawsuit in superior court for relief from alleged employment discrimination, utilizing a private attorney or public legal service provider. Court action automatically bars the filing of a complaint with the state agency while the suit is pending.

WAGE DISCRIMINATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56.1 - 34:11-56.11

GENERAL SUMMARY: With certain exceptions, employers in New Jersey may not discriminate in any way in the rate or method of payment of wages to any employee because of the employee's sex. Pay differentials based on reasonable factors other than sex are not deemed discriminatory for these purposes.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination law **does not apply** to persons employed on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CONSCIENTIOUS EMPLOYEE PROTECTION ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:19-1 - 34:19-14

GENERAL SUMMARY: Employers in New Jersey are prohibited from retaliating against an employee because the employee does any of the following:

- (1) Discloses or threatens to disclose to a supervisor, or to a public agency or official, an activity, policy or practice of an employer that the worker reasonably believes is in violation of a law or regulation, or is fraudulent or criminal.
- (2) Provides information to or testifies before a public body that is conducting an investigation, hearing or inquiry into a violation of law by an employer.
- (3) Objects to or refuses to participate in an activity, policy or practice that the worker reasonably believes is fraudulent, criminal, or in violation of the law.

The protection against retaliation does not apply to an employee's disclosure of information to a public body unless the employee has brought the perceived violation of the law to the attention of a supervisor of the employee, in writing, and has given the employer a reasonable opportunity to correct the unlawful activity, policy or practice involved.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies to agricultural employers and protects agricultural workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may, within one year thereafter, file a civil lawsuit against the offending employer, using a private attorney or public legal service provider. If the complaint is sustained, the court may order the complainant's reinstatement on the job, reinstatement of benefits, compensation for lost wages, and payment of reasonable court costs and attorney's fees. In addition, the court may order assessment of a civil penalty against the employer, ranging from \$10,000 for the first violation to \$20,000 for each subsequent violation.

HEALTH AND SAFETY

WORKER HEALTH AND SAFETY ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:6A-1 – 34:6A-24

GENERAL SUMMARY: The Worker Health and Safety Act requires most employers in New Jersey to furnish their workers with a reasonably safe and healthful place of employment, and to install, maintain and use such protective devices and safeguards (including appropriate methods of sanitation and hygiene) as are reasonably necessary to protect the workers' life, health and safety. The state labor commissioner is authorized to promulgate specific rules and regulations to implement this policy in all covered workplaces in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker Health and Safety Act does not apply to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ DRINKING WATER AND TOILET FACILITIES ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:9A-37 – 34:9A-41

RELATED REGULATIONS: N.J. Admin. Code 12:102

GENERAL SUMMARY: On certain farms where seasonal farmworkers labor in a field that is unreasonably distant from alternative facilities, the farm operator must provide drinking water, toilets and handwashing facilities for the workers. The state labor commissioner is authorized to prescribe specific standards necessary to effectuate the statutory provisions.

SPECIFIC TERMS AND CONDITIONS: The sanitation requirements summarized below, which reflect policy guidelines adopted by the state labor commissioner under the law's rulemaking authority, apply only to agricultural establishments with 10 or fewer field workers.

DRINKING WATER — Except when cool potable water facilities are otherwise available to the workers within 500 feet travel distance of the working area, the farm operator must furnish the workers with an adequate supply of fresh, cool, potable water in the working area. Water must be provided in portable containers capable of being tightly closed and equipped with a tap. Water must be dispensed in single-use drinking cups or by fountains; common drinking cups or dippers are not permitted.

TOILET FACILITIES — Except when toilet facilities are otherwise available within 500 feet travel distance or a 5-minute walk from the working area, the farm operator must provide clean, adequate toilet facilities in the working area. There must be separate accommodations for male and female employees, in a ratio of one toilet for every 20 workers (or fraction thereof) of each sex. The facilities must be equipped with an adequate supply of toilet paper, and must be maintained in clean, sanitary condition and in good working order. Doors must be lockable from the inside.

HANDWASHING FACILITIES — Except when handwashing facilities are otherwise available to the workers within 500 feet travel distance of the working area and in the vicinity of toilet facilities, there must be adequate handwashing facilities provided for the workers in the working area, in the vicinity of the required toilet facilities. The washing facilities must provide potable water, soap or some other cleansing agent, and individual towels.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). Field personnel from this agency may make site inspections, either in response to a worker's complaint or on the agency's own initiative. Whenever a violation is found, the Department may issue a citation against the employer involved and may require corrective action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Apart from the administrative enforcement process outlined above, any seasonal farmworker aggrieved by a violation of the drinking water and toilet facilities provisions is entitled to relief in civil court, using private legal counsel or a public legal service provider.

HOUSING

SEASONAL FARM LABOR ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:9A-1 - 34:9A-36

GENERAL SUMMARY: The Seasonal Farm Labor Act, in large part, regulates the construction, maintenance and operation of farm labor camps in New Jersey, briefly defined as one or more buildings, structures, tents or vehicles used as living quarters by migrant, seasonal or temporary workers in connection with any work or workplace.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATE OF COMPLIANCE — No farm labor camp may be maintained or occupied without a certificate of compliance issued by the state. The owner or operator of a camp must generally apply for a certificate no later than 60 days prior to its opening in any calendar year, and the state enforcement agency has 45 days from receipt of the application in which to conduct an inspection of the facility. If no inspection has been made within that timeframe, the camp may be opened but is subject to closure if subsequent inspection discloses substantial non-compliance with applicable state standards, outlined below. Likewise, whenever the state agency finds that a camp for which a certificate has been issued no longer complies with such standards, the certificate may be revoked.

CAMP STANDARDS — The Act prescribes specific requirements which farm labor camps must meet to qualify for occupancy, key elements of which are summarized as follows:

Sleeping Facilities — Sleeping areas must be clean and in reasonably good structural condition, and must afford occupants adequate protection against fire hazards and shelter against the elements. Camps must be furnished with beds or bunks made of sanitary materials and arranged with adequate vertical clearance and space in between. Sleeping areas must contain sufficient air space and partitions to ensure an adequate supply of fresh air and reasonable privacy for each occupant.

Food Preparation Facilities — Every camp must be provided with stoves or similar cooking equipment, and every room where food is prepared or served must be kept clean and properly screened. Cookware and food service implements must be clean, unbroken and sanitary.

Water — Subject to state-granted variances, there must be an adequate supply of safe and sanitary potable water at each camp certified for occupancy.

Bathing Facilities — Subject to variances and exceptions, convenient and suitable bathing facilities must be provided at every camp and kept clean and sanitary.

Toilet Facilities — Each camp must have privies or other toilet facilities, and a connecting sewage disposal system, which meet prescribed specifications. Toilet rooms or privies must be ventilated, fly-proof and maintained so as to prevent pollution of water supplies and other health hazards.

Garbage and Waste — Camp operators must furnish covered receptacles for the disposal of garbage and other refuse. Trash containers must be emptied daily and contents disposed of in accordance with state regulations.

SPECIAL NOTES OR ADVISORIES

PREEMPTION OF JURISDICTION — In a 1978 case (Harrington v. Department of Labor and Industry, 163 N.J.Super. 595, 395 A.2d 533), a state court found that the Seasonal Farm Labor Act, while constitutional, has been rendered partially inoperative through preemption by the federal Occupational Safety and Health Act (see entry, U.S. — Housing — General Employee Housing Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). It is the Department's duty under the Act to inspect each camp for which an application for certification of compliance is received, and to conduct follow-up inspections of such facilities randomly or in response to specific complaints. Any camp which does not conform to the Act or the associated regulations will be deemed a public nuisance, and if the deficiencies are not corrected within 5 days, the Department may bring suit to abate it. In addition to closure of the facility involved, the owner or operator of a labor camp found in violation of the Act is subject to criminal prosecution and, upon conviction, to fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 43:21-1 - 43:21-71

GENERAL SUMMARY: The Unemployment Compensation Law provides for the payment of weekly cash benefits to individuals who are temporarily out of work and who have certain minimum earnings from insured employment and meet other eligibility requirements. The statute establishes a state unemployment compensation fund, into which most employers and employees in New Jersey are compelled to pay contributions and from which all benefits to eligible unemployed workers are paid. In general, employers are required to pay UI contributions if they paid wages totaling \$1,000 or more in the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Each farm operator or other agricultural employing unit that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, is required to pay unemployment insurance contributions to the state unemployment compensation fund. The amount of an employer's contributions is figured as an annually assigned percentage of each worker's wages, up to a per-worker wage limit normally equal to 28 times the statewide average weekly wage for UI-covered employment.

WORKER CONTRIBUTIONS — Farmworkers who are employed by an establishment subject to the Unemployment Compensation Law, as described above, are generally required to contribute 0.3825 percent of their wages (up to the above-mentioned taxable limit) to the state UI fund. The worker's share of UI contributions is deducted and withheld from earnings by the employer, who must record the transaction in the payroll record and forward withholdings to the state agency, along with the employer's share.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker is generally eligible for UI benefits if the individual (1) has filed a claim and continues to report to the state employment office, (2) is able to work, available for work, and actively seeking work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim for benefits, met at least *one* of the following conditions:

- (a) Earned at least 20 times the state minimum wage in at least 20 different calendar weeks.
- (b) Earned not less than 1,000 times the state minimum wage.
- (c) Performed at least 770 hours of agricultural labor.

AMOUNT OF BENEFITS — The weekly benefit rate for any week of unemployment is defined roughly as 60 percent of the claimant's average weekly wage over the four-quarter base period. The weekly benefit rate will be increased by 7 percent for the worker's first dependent and 4 percent each for the next two dependents, if any, but in no case may the weekly benefit rate exceed 56²/₃ percent of the statewide average weekly wage for covered employment. The claimant's actual benefit payment for any week is generally equal to the weekly benefit rate, minus (1) any part-time earnings that week which exceed 20 percent of the weekly benefit rate, or (2) \$5, whichever deduction is greater.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460). The Department is responsible for administration and enforcement of the state's unemployment insurance program, including tax liability and benefit eligibility determinations, collection of contributions, and payment of benefits. UI claims may be filed online, at njsuccess.dol.state.nj.us/njsuccess/html/fileAClaimHomeContd.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:15-1 - 34:15-128.5

GENERAL SUMMARY: New Jersey's workers' compensation law provides that in all pursuits other than casual labor, an employee who suffers accidental personal injury on the job or is disabled by an occupational disease is entitled to receive compensation for such injury from the employer, provided the employee was not willfully negligent at the time of the injury or disease. Furthermore, the right to compensation cannot be denied on the grounds that the injury was caused by the negligence of a co-worker or that the injured worker had assumed the risks inherent to the job.

To satisfy the liability for compensation, at the same time averting litigation in which these defenses could not be raised, an employer must have workers' compensation coverage, which entails either purchasing a prescribed policy of workers' compensation insurance or applying to the state for exemption as a self-insurer. An employer is presumed to have coverage at the time of hiring, but with or without coverage, the employer remains liable for payment of each injured worker's medical expenses, as well as regular cash disability or death benefits for the worker or the worker's surviving dependents.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies to all farm operators and other agricultural establishments in New Jersey with one or more employees, to the same extent as employers in covered non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discharge or discriminate in any other manner against an employee because the employee has made or attempted to make a claim for workers' compensation benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515). This agency is responsible for assuring compliance with the workers' compensation law by subject employers. In general, a claim for compensation is not payable unless the employer is notified of the injury involved within 14 days of its occurrence. If a disagreement should arise over a claim for benefits, the worker or the worker's dependents must submit the claim to the Division, which is the appropriate forum for adjudicating disputes concerning questions of fact, the nature and effect of the injury, and the amount of compensation payable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Enforcement of a claim against an employer who is subject to the law but does not have workers' compensation coverage requires legal action by the worker in the workers' compensation court, through a private attorney or public legal service provider. A worker in that situation may apply for benefits through the Uninsured Employer's Fund.

TEMPORARY DISABILITY BENEFITS LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 43:21-25 - 43:21-56

GENERAL SUMMARY: The Temporary Disability Benefits Law establishes a uniform system for the payment of cash benefits to disabled employees, to replace earnings lost by reason of an accident or injury which is not compensable under the state workers' compensation program. Benefits may be provided through (1) the state disability benefits fund, which is administered by the state and financed by contributions assessed against the employer and the worker, or (2) a state-approved private plan established by the employer, who, with the consent of a majority of the workers, may withhold a portion of the plan's cost from the workers' wages. In general, the law applies to employers and employees who are covered by the state unemployment compensation law (see entry, New Jersey — Insurance & Compensation — Unemployment Insurance).

PROVISIONS APPLICABLE TO AGRICULTURE

STATE DISABILITY BENEFIT PLAN —

Employer Contributions — A farm employer who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for any part of a day in 20 or more different calendar weeks in the current or preceding year employed 10 or more agricultural workers, is required to contribute to the state disability benefits fund 0.5 percent of the wages paid to his or her workers, up to a per-worker wage limit normally equal to 28 times the statewide average weekly wage for employment covered by the unemployment compensation law.

Worker Contributions — Farmworkers who are employed by a subject employer, as described above, must generally contribute to the state disability benefits fund a sum equal to 0.28 percent of the worker's earnings, up to the above-mentioned wage limit. The employer is required to withhold contributions from the worker's pay and forward such amounts to the state agency, along with the employer's share.

Eligibility for Benefits — In general, a worker is entitled to temporary disability benefits only if the state agency finds that the worker (1) became totally disabled during a period of employment with a subject employer, or less than 2 weeks after separation from such employment, (2) is not eligible for workers' compensation, (3) is not covered by a private disability benefit plan, as described below, (4) is under the care of a licensed physician or comparable health care provider who can certify the claimant's disability, and (5) has, during the 52 weeks immediately preceding the onset of disability, earned at least 20 times the state hourly minimum wage in at least 20 different calendar weeks, or earned not less than 1,000 times the state hourly minimum wage.

Amount of Benefits — The weekly benefit rate payable to an eligible individual is normally equal to 2/3 of the individual's average weekly wage over the 52-week period immediately before the disability, subject to a maximum of 53 percent of the statewide average weekly wage for covered employment. The amount of benefits for each day of disability for which benefits are payable is computed at 1/7 of the corresponding weekly benefit rate.

PRIVATE PLANS —

Employer Options — As an alternative to participation in the state disability program, any covered employer, as defined in brief above, may establish a private plan for the payment of such benefits. A private plan may be provided through a commercial insurance carrier, by agreement between the employer and a union or other employee association or representative, or under an employer self-insurance arrangement. All private benefit plans must be submitted to and approved by the state agency.

Worker Contributions — An employer may cover part of the cost of providing benefits privately by requiring workers to pay contributions to the plan, but a majority of the employer's workforce must agree to such an arrangement before the plan is approved by the state agency. Furthermore, a private plan may not compel a worker to pay a greater amount toward the cost of benefits than the level of contributions prescribed for workers covered under the state program.

Eligibility for Benefits — The eligibility criteria for benefits under a private plan must be no more restrictive than those applicable to benefits from the state disability benefits fund.

Amount of Benefits — Benefits through a private plan must equal or exceed those payable under the state program.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460). The Department has responsibility for enforcing the Temporary Disability Benefits Law and for administering the associated state disability benefits program. A worker who is disabled by an injury or illness not connected with employment, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at lwd.dol.state.nj.us/labor/tdi/tdiindex.html#TDI2.

Any dispute that arises over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

→ TEMPORARY DISABILITY BENEFITS LAW (FAMILY LEAVE INSURANCE)

STATUTORY CITATION: N.J. Rev. Stat. §§ 43:21-39.1 - 43:21-39.4

GENERAL SUMMARY: In addition to replacing earnings lost on account of non-work-related disabilities, the Temporary Disability Benefits Law also authorizes cash benefits for up to 6 weeks to allow employees to provide care to a seriously ill family member, or to bond with a newborn or newly adopted child.

SPECIFIC TERMS AND CONDITIONS

EARNINGS ELIGIBILITY — In general, to qualify for Family Leave Insurance benefits, a worker must have earned wages from one or more covered employers amounting to 20 times the state hourly minimum wage in at least 20 different calendar weeks, or earned not less than 1,000 times the state hourly minimum wage from covered employment, during the 52 weeks immediately preceding the family leave period. A covered farm employer is one who (1) paid agricultural wages of \$20,000 or more during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more agricultural workers for any part of a day in 20 or more different calendar weeks this year or last.

OTHER CONDITIONS AND LIMITATIONS — Family Leave benefits are subject to the following conditions, among many others:

Care Leave — Leave to care for a family member with a serious health condition applies only to a worker's spouse, domestic or civil union partner, parent or child, and the health condition must be verified by a licensed health care provider. Care leave may be taken for 6 consecutive or intermittent weeks, or 42 intermittent days, during the 12-month period immediately preceding the claim.

Bonding Leave — Paid family leave for up to 6 weeks may also be taken to bond with (1) a newborn child during the 12 months after the child's birth, or (2) an adopted child during the 12 months after the child's placement. This type of leave generally must be for a period of more than 7 consecutive days. At the time the claim is made, the worker must provide certain documentation, such as the child's birth certificate or adoption records.

AMOUNT OF BENEFITS — The weekly benefit rate payable to an eligible individual is normally equal to 2/3 of the individual's average weekly wage over the 52-week period immediately before the leave period, subject to a maximum of 53 percent of the statewide average weekly wage for covered employment. The amount of benefits for each day of disability for which benefits are payable is computed at 1/7 of the corresponding weekly benefit rate.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460). The Department has responsibility for administering the Family Leave Insurance program. A worker who takes family leave, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at http://lwd.dol.state.nj.us/labor/fil/fliindex.html. Any dispute that arises over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

O PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8-43 - 34:8-63

RELATED REGULATIONS: N.J. Admin. Code 13:45B, Subch. 2

GENERAL SUMMARY: Chapter 8 of the state labor laws includes provisions regulating the operation of employment agencies, a term broadly defined but including any business or agency which, for a fee, procures jobs for workers or provides workers for employers, whether such fee is collected from the worker or the employer. No one may perform any of the functions of an employment agency in New Jersey without first obtaining from the state an employment agency operator's license, the issuance of which, among other conditions, requires successful completion of a written examination concerning (1) the provisions of the employment agency law and the associated administrative rules, and (2) the applicant's relevant knowledge and experience. Likewise, employment agency owners must post a \$10,000 bond covering liability for damages due to misrepresentation, fraud or any unlawful act committed in the course of the licensee's business. The statute defines a multitude of prohibited activities which are grounds for license suspension, revocation or non-renewal, as well as for civil money penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that (1) workers' wages are paid directly by the farm operators for whom the workers' services are performed and (2) no job-finding or employment fees are charged to or collected from the workers, the employment agency law **does not apply** to anyone who furnishes seasonal field or harvest workers to farm operators.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Regulated Business Section, Division of Consumer Affairs, New Jersey Department of Law and Public Safety, Newark, New Jersey 07101.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FARM LABOR CREW LEADER LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8A-7 - 34:8A-17

GENERAL SUMMARY: Chapter 8A of the New Jersey labor laws regulates the business activities of farm labor crew leaders, in part by requiring such entities to register with the state and by prescribing specific obligations crew leaders must meet as a condition for issuance, maintenance and renewal of the registration certificate.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — No person may recruit, supply or hire farm or food processing laborers, or transport and direct any part of the work of such laborers, for direct or indirect compensation by any farm operator or worker, unless the person has a valid certificate of registration issued by the state. The farm labor crew leader registration requirement does not apply to the owner or operator of a farm or food processing plant who recruits or hires laborers solely for work in his or her own operation.

USE OF CREW LEADERS — It is unlawful for a farm operator to employ or use the services of a crew leader in New Jersey who is not in possession of a valid registration certificate.

CREW LEADER DUTIES — Among other responsibilities imposed by this law, crew leaders are obliged to observe the following duties:

Disclosure — At the time of recruitment, the crew leader must inform each worker regarding the location of employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rates to be paid, and the charges to be assessed the worker for the crew leader's services.

Posting — Crew leaders are required to conspicuously display, and offer a copy thereof to each farmworker or head of a farmworker household under their supervision, a notice in Spanish and English summarizing the disclosure information mentioned above, as well as the name and address of the crew leader, the name and address of the farm operator where the work is to be performed, the anticipated duration of the job, and a schedule of the minimum pay for each hour of employment.

Payment — Whenever a crew leader is party to the disbursement of wages, he or she must pay all compensation due any migrant or seasonal farmworker on the same premises where the work was performed, and immediately upon termination of the period of employment.

Payroll Recordkeeping — Every crew leader who is involved in the disbursement of wages to any migrant or seasonal farmworker must keep a record of the place of work, gross pay, deductions, and the name and address of the worker. For each worker employed on a time basis, the record must include the number of hours worked daily and weekly and the wage rate per hour; for workers paid on a piece-rate basis, the crew leader must record the number of units of work performed, the wage rate per unit, and the total hours worked daily and weekly.

AUTHORIZATION TO TRANSPORT — A registration certificate cannot be issued to any applicant transporting migrant or seasonal farmworkers unless the applicant furnishes satisfactory proof of compliance with state motor vehicle regulatory requirements applicable to such transportation. If, however, the applicant affirms in writing the intention not to transport any such workers, a registration certificate bearing the words "Not Authorized To Transport" may be granted, at the discretion of the enforcement agency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A crew leader may not discharge, discipline or discriminate in any manner against a migrant or seasonal farmworker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded under state or federal law. The anti-retaliation protection is enforceable through private civil action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). The Department is charged with issuing farm labor crew leader registration certificates to eligible applicants and is authorized to investigate any complaint regarding a violation of the crew leader law. In connection with any such investigation, the Department may subpoen witnesses and documentary evidence. The statute expressly directs the Department to annually conduct random fact-finding compliance interviews with farmworkers employed by or under the supervision of a crew leader, and to perform inspections of crew leader records. In addition to the revocation or suspension of the registration certificate, a crew leader or anyone else who violates any provision of the law or its associated regulations is liable to both criminal prosecution and civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any seasonal farmworker aggrieved by an apparent violation of these provisions may take civil court action against the crew leader, using a private attorney or public legal service provider.

LABOR RELATIONS AND COLLECTIVE BARGAINING

STRIKEBREAKERS ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:13C-1 – 34:13C-6

GENERAL SUMMARY: It is illegal for any person, firm or corporation to import or supply anyone from outside New Jersey, or to transport anyone within the state, with the objective of (1) replacing workers who are lawfully on strike or who have been locked out, (2) interfering with or intimidating workers who are picketing an employer or engaged in other lawful activities in support of a strike, or (3) interfering with the right of workers to form, join or assist labor organizations or to engage in collective bargaining with their employers.

PROVISIONS APPLICABLE TO AGRICULTURE: With the exception of common carriers, these provisions apply to all employment in the state, implicitly including agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The Strikebreakers Act is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE CONTROL ACT OF 1971

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 - 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30, Subchs. 5 - 13

GENERAL SUMMARY: In order to eliminate the environmental threat posed by the indiscriminate use of pesticides, the Pesticide Control Act authorizes the adoption of state regulations governing the sale, purchase, transportation, labeling, use and application of insecticides, rodenticides and similar products in New Jersey.

SPECIFIC TERMS AND CONDITIONS: Under statutory rulemaking authority, the state environmental protection department has adopted standards relevant to pesticide applicators and the general use of pesticides.

PESTICIDE APPLICATOR BUSINESSES —

Licensing — No individual, company or other entity may engage in the business of applying pesticides for hire without first licensing the business with the state. Among other requirements, a pesticide application business must maintain liability insurance with limits ranging from \$300,000 to \$500,000 for bodily injury and property damage, or obtain a surety bond of from \$100,000 to \$300,000. For each category of pesticide application in which it engages, the business must employ at least one commercial pesticide applicator who is certified and registered in that category.

Recordkeeping — Along with numerous related duties, every pesticide application business is required to keep a record of each application of pesticides performed by the business. The record must include the date of application, the place of application, the name of the product used, the amount applied, the dosage or rate of application, and the name and business license number of the person performing the application.

COMMERCIAL PESTICIDE APPLICATORS —

Certification and Licensing — In general, no one (other than a private applicator, discussed below) may use or supervise the use of any pesticide in any category of use for which he or she has not been certified and licensed by the state, unless the person is an employee of a commercial pesticide applicator and is applying pesticides (using non-aerial equipment only) under the direct supervision of that commercial applicator. In order to become certified, an applicant is required to pass both a general examination and an examination specific to the category of use in which the applicant will engage. Within 12 months after certification, a commercial applicator must apply for a license, which is renewable annually.

Recordkeeping — Among related responsibilities, commercial pesticide applicators must keep a record of each application of pesticides they make or supervise. The record must contain essentially the same elements as those prescribed for pesticide application businesses.

PRIVATE PESTICIDE APPLICATORS —

Certification and Registration — Agricultural producers who apply or supervise the application of restricted-use pesticides to their own crops, as well as the employees of such producers who apply restricted-use pesticides to their employer's crops, must be certified and licensed as private pesticide applicators. Certification requires successful completion of two separate examinations, both designed to test the applicant's knowledge and understanding of pesticide safety, laws and regulations, pesticide labeling, crops and pests, pesticide poisoning symptoms, and related subjects. Within 12 months after certification, private applicators are required to apply for a license.

Recordkeeping — Registered private applicators must keep a record of each application of pesticides, in essentially the same format as described above with respect to pesticide application businesses.

COMMERCIAL PESTICIDE OPERATORS — Unless the person is certified and licensed as a commercial or private applicator or is working in the actual presence of such an applicator, no person may apply pesticides under the supervision of a commercial or private applicator unless he or she has undergone annual prescribed training and is licensed as a pesticide operator. Under no circumstances, however, may a pesticide operator apply pesticides by air.

STORAGE OF PESTICIDES — Restricted-use pesticides and contaminated containers generally must be stored in a secure, locked enclosure, plainly marked with warnings.

CONTAINER LABELING — It is illegal to store, transport or possess any pesticide if part or all of its labeling is missing or unreadable; if the product is in a service container, the container must have attached to it a readable label showing the name of the substance, its EPA registration number, the name and percentage of its active ingredients, and an appropriate signal word ("Danger—Poison," "Warning," or "Caution"). Pesticides may not be placed or kept in any container commonly used for food, beverages or household products.

PESTICIDE DISPOSAL — No one may dispose of pesticides, pesticide containers or pesticide equipment in any way which could harm people or the environment, or in a manner prohibited by state or federal law.

APPLICATION AND SAFETY EQUIPMENT — Pesticide application equipment must be properly maintained and calibrated. Anyone having employees who handle or apply pesticides must make necessary or appropriate safety equipment available to the workers. Safety equipment must be in good working order, and the workers must be trained in its proper operation.

PRIOR NOTIFICATION OF PESTICIDE APPLICATIONS — In general, application of pesticides to an area greater than 3 acres, when the treatment is performed by or contracted for one person who has control over the targeted land, is illegal unless prior notification of the proposed application has been given to persons living in the vicinity of the target site. Notification must be given in at least 2 newspapers, no earlier than 30 days and no later than 7 days before the proposed date of treatment.

NOTE: While this requirement does not apply to aerial pesticide applications made in connection with the production of agricultural commodities, any private or commercial applicator who has been cited by the state agency for a violation involving pesticide drift, direct application to non-target areas, or injury or damage to people or the environment during the course of producing an agricultural commodity, must post a warning flag or sign that is visible to nearby properties. The flags or signs need to go up at the start of the application and remain posted for at least 24 hours and be removed within 72 hours of the end of the restricted-entry interval.

PROHIBITED ACTS — Among many other unlawful acts, it is illegal for anyone (1) to use a pesticide in a manner inconsistent with the product's labeling or with state or federal restrictions, (2) to handle or apply pesticides in any way that causes or could cause harm to people, property or the environment, (3) to apply pesticides without taking reasonable precautions to minimize exposure of individuals and assuring the safety of persons who are unavoidably exposed, (4) to apply pesticides to a target site in such a way or under such conditions that a non-targeted site is contaminated by pesticide drift, or (5) to apply pesticides to agricultural lands when persons other than those involved in the application are in the target area without prescribed protective clothing or equipment.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568). This agency is responsible for certification and licensing of pesticide applicators, and for monitoring compliance with the statutory and regulatory requirements and restrictions on the use of pesticides in the state. The Department may suspend or revoke the license of any application business, applicator or operator found to have violated any of these provisions, or of anyone who has been assessed a civil penalty or convicted of a criminal violation under the Federal Insecticide, Fungicide, and Rodenticide Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDE CONTROL ACT OF 1971 (AERIAL APPLICATION)

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 – 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30-10.6

GENERAL SUMMARY: In addition to more general regulatory provisions, the state environmental protection department has adopted rules dealing explicitly with aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

AERIAL APPLICATION EQUIPMENT — Equipment used in the application of pesticides from the air must be properly calibrated, free of leaks, and equipped with a prescribed shut-off system. Spray equipment must be thoroughly rinsed prior to application of a different, non-compatible substance.

AERIAL APPLICATION STANDARDS — Among other restrictions on aerial application, pesticides applied in liquid or dust form must generally be released within 15 feet above the target. Pesticide granules or pellets generally may not be released from an altitude any higher than 40 feet above the target.

DISTANCE LIMITATIONS — As a rule, no pesticide may be applied any closer than 100 feet from a private residence without the written consent of the occupant, or within 300 feet of an occupied school, hospital, nursing home, or any building used for business, social or religious purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568). The Department may suspend or revoke the license of any application business or applicator found to have violated any of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDE CONTROL ACT OF 1971 (AGRICULTURAL WORKER PROTECTION)

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 - 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30, Subchs. 8 and 12

GENERAL SUMMARY: Apart from the general and aerial application regulations, the state environmental protection department has adopted rules dealing explicitly with pesticide-related farmworker safety.

SPECIFIC TERMS AND CONDITIONS: Among the detailed requirements and restrictions included in the worker protection regulations are the following, which apply largely to farmworkers engaged in crop activities in the field and not directly involved in applying pesticides themselves.

ENTRY RESTRICTIONS — After an application of any pesticide to an agricultural field or in an agricultural workplace, the farm operator generally may not allow or direct any worker to enter or remain in the treated area before the restricted-entry interval specified on the pesticide label has expired. However, no sooner than 4 hours after a pesticide application, a worker may enter and remain in a treated area for up to an hour during a restricted-entry period if, among other requirements, (1) the worker uses the personal protective equipment prescribed on the product label, (2) no hand labor is performed, and (3) the worker has read the product labeling or had it explained.

WARNINGS TO WORKERS — Unless an agricultural employer is certain that no worker will enter, work in, remain in, or pass through the treated area on foot during an application of a pesticide and during its restricted-entry interval, the employer is required to notify workers of any pesticide application on the farm. If the product label requires that the notification be posted, the warning signs must (1) be of prescribed size and content, with the words "Danger," "Pesticides," "and "Keep Out," in English and the native language understood by the workers, (2) be posted no sooner than 24 hours before the scheduled application, at locations visible from all points of worker entry or at the corners of the treatment area, and (3) be removed within 3 days after the expiration of the restricted-entry period. Among other required information, the posted warnings must include the name of the crop to be treated, the identity of the pesticide to be used, the safe re-entry time, and the date and location of the application. A map of the farm clearly designating the fields to be treated must be posted at the same location.

If the label requires oral warnings, they must generally be given before the application commences, in language easily understood by the worker, and include (1) the location and description of the treated area, (2) the time during which entry is restricted, and (3) instructions not to enter the treated area until the re-entry period has expired.

PESTICIDE SAFETY TRAINING —

Orientation — On the first day of an agricultural worker's employment, or at least one day prior to his or her assignment to a field that has been treated within the past 30 days, the agricultural employer must assure that the worker has received an employee orientation at least once during each year of employment. The orientation must cover topics including, among others, (1) re-entry, and how workers are informed about re-entry, (2) the location of handwashing facilities, clean clothes and protective clothing, (3) where to obtain immediate decontamination, (4) a review of required bulletin board information, and (5) the availability of pesticide fact sheets.

Safety Information — Before a farmworker enters any area where a regulated pesticide has been applied within the last 30 days, or where a restricted-entry interval has been in effect, the employer must assure that the worker has received certain pesticide safety information, including (1) how pesticide exposure can occur, and (2) how pesticides can be prevented from entering the body. The information may be in oral or written form, but it must be presented in a manner that the worker can understand.

Training — Before the 6th day that a worker enters any area where, within the last 30 days, a regulated pesticide has been applied or a restricted-entry interval has been in effect, the agricultural employer must assure that the worker has been trained. Training must be provided by an individual who meets state qualifications and must be presented in a way that the worker can understand. Among other content requirements, the training must include (1) how pesticides may be encountered during work activities, (2) the hazards of pesticide exposure, (3) the routes through which pesticides can enter the body, (4) the symptoms of pesticide poisoning, (5) emergency first aid for pesticide injuries and poisoning, (6) how to obtain emergency medical care, (7) decontamination procedures, (8) the hazards of chemigation and drift, (9) the hazards of pesticide residues on clothing, (10) warnings about taking pesticides or pesticide containers home, (11) the regulatory requirements designed to reduce the risk of illness and injury, and (12) worker rights under state and federal laws.

DECONTAMINATION FACILITIES — If any agricultural worker performs an activity in an area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect, and the worker contacts anything that has been treated with the pesticide, the agricultural employer is required to provide a decontamination site for washing off pesticide residues. The decontamination site must be reasonably accessible to where workers are working, located at the same site as the required portable toilets, and not in an area where pesticides are being applied. Decontamination facilities must include enough clean, suitably cool water for routine washing and emergency eye-flushing, along with soap and single-use towels.

EMERGENCY ASSISTANCE — If there is reason to believe that a farmworker employed at an agricultural establishment has been poisoned or injured by exposure to pesticides used on that establishment, the agricultural employer must make available prompt transportation of the worker from the farm or labor camp to an appropriate medical facility. Likewise, the employer must provide the worker, or to the medical personnel treating the worker, all relevant and available information, including (1) the name, EPA registration number, and active ingredients of the pesticide product involved, (2) antidote, first aid or other medical information from the product label, (3) the circumstances of the application or use of the product at the agricultural establishment, and (4) the circumstances of the victim's exposure to the product.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O WORKER AND COMMUNITY RIGHT TO KNOW ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:5A-1 – 34:5A-44

GENERAL SUMMARY: The Worker and Community Right to Know Act requires, among other things, that the state health department develop and maintain a list of workplace hazardous substances and conduct a biennial survey of all employers subject to the Act to determine where each such hazardous substance is or may be encountered on the job. Subject employers must retain a copy of the workplace survey and post a notice in English (and in Spanish, if the native language of any employee is Spanish) advising workers of the availability of that information.

Employers are also required to provide new employees with an education and training program within the first month of employment, designed to inform them of the nature of the hazardous substances to which they are exposed in the course of their work, the potential health risks such substances pose, and procedures for handling hazardous substances safely under all circumstances.

The Act further mandates the use of prescribed labeling of containers holding hazardous substances, to enable workers to identify and guard against on-the-job chemical accidents. Finally, the Act guarantees employees the right to receive from the employer a copy of the workplace survey and the hazardous substance fact sheets for the facility where they work.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker and Community Right to Know Act **does not apply** to establishments engaged in agricultural production, agricultural services (other than lawn and garden services), or to any other industrial sector not explicitly mentioned in the Act's coverage provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Right to Know Unit, Consumer, Environmental and Occupational Health Service Division, New Jersey Department of Health, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Bureau of Local Environmental Management and Right to Know, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625.

TRANSPORTATION

● FARM LABOR CREW LEADER LAW (WORKER TRANSPORTATION)

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8A-7 - 34:8A-17

GENERAL SUMMARY: Chapter 8A of the state labor laws imposes certain restrictions on the activities of farm labor crew leaders in New Jersey, including the furnishing of worker transportation.

SPECIFIC TERMS AND CONDITIONS

AUTHORIZATION TO TRANSPORT — As a condition for issuance of a crew leader certificate of registration, any applicant who transports migrant or seasonal farmworkers must provide the state administering agency with satisfactory proof of compliance with state motor vehicle requirements applicable to such transportation. At the agency's discretion, a registration certificate inscribed with the words "Not Authorized To Transport" may be granted to an otherwise qualified crew leader who submits a signed application affirming that he or she will not be furnishing farmworkers with transportation.

DISCLOSURE — At the time of recruitment, the crew leader must disclose to each farmworker recruited the transportation services, if any, the crew leader intends to provide in connection with the worker's employment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A crew leader may not discharge, discipline or discriminate in any manner against a migrant or seasonal farmworker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded under state or federal law. The anti-retaliation protection is enforceable through private civil action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). The Department is charged with issuing farm labor crew leader registration certificates to eligible applicants and is authorized to investigate any complaint regarding a violation of the crew leader law. In addition to the revocation or suspension of the registration certificate, a crew leader who violates any provision of the law or its associated regulations is liable to both criminal prosecution and civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any seasonal farmworker aggrieved by an apparent violation of these provisions may take civil court action against the crew leader, using a private attorney or public legal service provider.

WAGES AND HOURS

NEW JERSEY STATE WAGE AND HOUR LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56a – 34:11-56a30

RELATED REGULATIONS: N.J. Admin. Code 12:56, Subch. 3

GENERAL SUMMARY: The New Jersey State Wage and Hour Law declares the employment of workers in any occupation at an oppressive and unreasonable wage to be contrary to public policy. Under rulemaking authority granted by the statute, the state labor commissioner has adopted regulations requiring an annual cost-of-living adjustment in the state minimum wage rate last prescribed in the Wage and Hour Law, based on August-to-August changes (if any) in the consumer price index.

Effective January 1, 2017, the state minimum wage is \$8.44 per hour, which generally applies to workers 18 years of age and over.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — Like their counterparts in other covered occupations, farmworkers in New Jersey who are 18 years of age and older are generally entitled to at least \$8.44 for every hour on the job. Workers paid on a piecework basis must receive for their labor no less than the minimum hourly wage rate multiplied by the total number of hours worked.

RECORDKEEPING — Farm operators and other employers subject to the Wage and Hour Law must keep a true and accurate record of the hours worked by and the wages paid to each covered worker.

POSTING — Employers must keep a summary of the law and any applicable wage orders and regulations posted in a conspicuous and accessible place on the premises where any covered worker is employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305). Authorized representatives of the Department may enter any place of business where workers are employed, for the purpose of examining payroll records, inspecting working conditions, and questioning employees to ascertain the employer's compliance with the Wage and Hour Law and any associated wage orders or regulations. The Department may act either in response to a worker's claim for unpaid wages or on its own initiative. At the request of any employee paid less than the minimum wage to which the employee is entitled under the statute, the Department may take assignment of a wage claim and bring legal action on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover the unpaid wages, plus court costs and attorney's fees.

O NEW JERSEY STATE WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56a - 34:11-56a30

GENERAL SUMMARY: For each hour of working time in excess of 40 hours in any week, the New Jersey State Wage and Hour Law entitles most workers to overtime pay of at least 1¹/2 times their regular hourly rate.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision does not apply to employees engaged in labor on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-4.1 - 34:11-14

GENERAL SUMMARY: The state wage payment laws regulate, among other compensation conditions, the time and mode of payment, pay at termination or suspension of employment, the withholding of wages, and pay-related disclosures. These provisions generally apply to all employment in New Jersey.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — As a rule, employers must pay workers' wages at least twice each calendar month, on regular paydays designated in advance by the employer. The end of the pay period for which payment is made on a regular payday may not be more than 10 working days before such payday.

MODE OF PAYMENT — Wages are required to be paid (1) in lawful U.S. money, (2) by check, provided suitable arrangements are made for employees to cash their checks conveniently and for the full amount for which the checks are drawn, or (3) by direct deposit to a federally- or state-chartered financial institution.

PAYMENT AT TERMINATION OR SUSPENSION — Whenever an employer discharges or lays off a worker, or when a worker quits or leaves employment for any reason, the employer must pay final wages no later than the next regular payday.

WAGE WITHHOLDING — It is illegal for an employer to withhold or divert any portion of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the amounts withheld are for contributions authorized in writing for an employee benefit or savings plan or for other lawful purposes.

DISCLOSURES — At the time of hiring, employers must notify their employees concerning the rate of pay and the schedule of paydays, and thereafter must notify employees in advance of any changes in pay rates or paydays. Employers are required to furnish each worker with a statement of any deductions made from the worker's pay for each pay period in which such deductions are made.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305). The Department is empowered to enter any workplace, question employees, inspect payroll records, and take related steps to ensure compliance with the state wage payment laws, either in response to a specific claim by a worker or in any case of a reported or suspected violation. An employer who willfully violates any provision of the wage payment laws is subject to a fine of from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ NEW JERSEY GROSS INCOME TAX ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 54A:1.1 - 54A:10-12

GENERAL SUMMARY: The New Jersey Gross Income Tax Act imposes an annual tax on gross income, including wages paid to residents and non-residents for services rendered in the state. To the extent that an employee's wages are subject to state unemployment insurance taxes (see entry, New Jersey — Insurance & Compensation — Unemployment Insurance), the employer must deduct and withhold from the individual's wages each pay period an amount calculated to approximate the state income tax due on the compensation involved.

Sums withheld from the worker's pay must periodically be forwarded to the state for credit against the worker's income tax liability. Furthermore, by February 15 of the succeeding year or within 30 days of payment of final wages, the employer must furnish the worker with a written statement showing the worker's total earnings for the year and the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural employers who (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to withhold state income tax from their employees' wages.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Taxation, New Jersey Department of the Treasury, Trenton, New Jersey 08695 (609-292-6400). This agency is responsible for enforcing the withholding of state income taxes from employees' wages, and for assuring employers' compliance with requirements for reporting wages and taxes to their employees.

New Mexico

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New Mexico

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CHILD LABOR

CHILD LABOR ACT

STATUTORY CITATION: N.M. Stat. §§ 50-6-1 - 50-6-19

GENERAL SUMMARY: New Mexico's Child Labor Act generally prohibits the employment of children under the age of 14, requires a work permit for the lawful employment of 14- and 15-year-olds, limits the working hours and occupations of such minors, and enumerates certain injurious employment activities closed to minors under 18. These provisions generally make no distinction between agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

CHILDREN UNDER 14 — With few exceptions, no child under the age of 14 may be employed or permitted to work in any gainful occupation.

CHILDREN AGE 14 and 15 -

Work Permit — No employer may hire a 14- or 15-year-old unless the child presents a valid work permit issued by the state labor department. The employer is required to keep the permit on file and post conspicuously a list of all children employed at that location.

Hours and Time Restrictions — Except for participants in work experience and career exploration programs, 14-and 15-year-olds are prohibited from working during school hours and may not work for more than 3 hours per day on a school day, nor for more than 18 hours during a school week. When school is not in session, work is limited to 8 hours in any one day and 40 hours during any one week. Employment is permitted only between the hours of 7:00 a.m. and 7:00 p.m. during the school year, and between 7:00 a.m. and 9:00 p.m. outside the school year.

PROHIBITED OCCUPATIONS — Minors may not be employed in certain occupations listed in the statute and regarded as hazardous or injurious to the health or morals of children. The only prohibited activities generally identifiable with agriculture are operations involving belted moving machinery, employment in which is not authorized for anyone under 16.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Relations Division, New Mexico Department of Workforce Solutions, Santa Fe, New Mexico 87505 (505-827-6817). Representatives of the Division are authorized to inspect work permits and other personnel records on any premises where minors are employed. The presence of a child at a workplace where there is no permit authorizing the child's employment is deemed prima facie evidence that the child is unlawfully employed. Anyone who employs a minor in violation of the Child Labor Act, and anyone who has control of a minor and permits the child to be so employed, may be reported by the Division to the local district attorney for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: N.M. Stat. §§ 22-12-1 - 22-12-9

GENERAL SUMMARY: With certain exceptions, the Compulsory School Attendance Law requires every child who has reached the age of 5 prior to September 1 in a given school year, but who is not yet 18 and has not graduated from high school, to attend a public school, charter or private school, home school, or state institution for the duration of the school year. The parent, guardian or other person having custody and control of such child is responsible for the child's school attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: The Compulsory School Attendance Law and its exceptions apply without regard to the occupational classification of children in the affected age range or the occupation of their parents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the public school boards in New Mexico and by governing authorities of the state's charter and private schools. Parents and others in charge of children of compulsory school age who fail to attend school as required must be given written notice of the violation, after which continued non-compliance will be reported to the district probation services office. Knowingly allowing a student to continue to violate the Compulsory School Attendance Law renders the child's parent, guardian or custodian liable to compulsory community service, a fine, or a jail sentence.

CIVIL RIGHTS

HUMAN RIGHTS ACT

STATUTORY CITATION: N.M. Stat. §§ 28-1-1 - 28-1-14

GENERAL SUMMARY: The Human Rights Act defines numerous unlawful practices, including certain forms of employment discrimination, and creates a state administrative framework to receive, investigate and resolve grievances alleging such discriminatory practices. The Act applies to employers and employees in New Mexico without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal under most circumstances for an employer with 4 or more workers to refuse to hire a job applicant, to discharge, promote or demote an employee, or to discriminate against anyone otherwise qualified in matters relating to the terms, conditions or privileges of employment, because of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, or serious medical condition, unless such distinction is based on a bona fide occupational qualification or other statutory exception.

Similar acts (1) committed by an employer with 50 or more employees and against an employee because of his or her marital status, and (2) committed by an employer with 15 or more employees and against an employee because of the employee's sexual orientation or gender identity, are also generally illegal.

Employment agencies and labor organizations are barred from comparable discriminatory practices.

A person, employer, employment agency, or organization cannot use the provisions of the Human Rights Act to adopt or implement a quota on the basis of sexual orientation or gender identity.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the enforcement agency within 300 days after the alleged act was committed. If the agency's initial investigation yields evidence of a violation of the Act, the staff must attempt to resolve the complaint through persuasion and conciliation. A formal written complaint against the employer or other respondent involved will be issued if informal efforts at conciliation are unsuccessful, followed by a hearing to allow the respondent to answer the allegations. Upon conclusion of the hearing, a finding that a discriminatory practice has, in fact, occurred will lead to an order requiring appropriate affirmative action by the respondent to eliminate the discrimination and compensate the complainant for actual damages.

APPEAL — Anyone claiming to be aggrieved by an unlawful employment practice may file an appeal in the district court of the county where the discriminatory practice occurred or where the respondent does business. The notice of appeal must be filed within 90 days of service of the commissioner's order.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Investigation and Compliance Unit, Human Rights Bureau, New Mexico Department of Workforce Solutions, Santa Fe, New Mexico 87505 (505-827-6856; toll-free 800-566-9471). In fulfilling the functions outlined above, the Bureau may subpoena witnesses, take sworn testimony, require the production of personnel records and related documentation, and perform other investigative duties. Through local district attorneys or the state attorney general, the Bureau is also empowered to seek court-ordered enforcement of orders issued by the Human Rights Commission, which is the authority designated to hear and adjudicate complaints.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FAIR PAY FOR WOMEN ACT

STATUTORY CITATION: N.M. Stat. §§ 28-23-1 - 28-23-6

GENERAL SUMMARY: Virtually all New Mexico employers who have 4 or more employees are prohibited from discriminating between employees on the basis of sex, by paying wages to employees at a rate less than the rate the employer pays to employees of the opposite sex in the same establishment for equal work, on jobs requiring equal skill, effort and responsibility and that are performed under similar working conditions. The only exceptions are where payment is made pursuant to a seniority system, a merit system, or a system that measures earnings by quantity or quality of production.

PROVISIONS APPLICABLE TO AGRICULTURE: The Fair Pay for Women Act applies to agricultural employers, and protects agricultural workers, to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — A worker aggrieved by an alleged violation of this law may take action against the employer involved in civil court, using a private attorney or public legal service provider. A complaint in civil court must be brought no later than 2 years from the last date of the worker's employment. An employer found to have violated the Act is liable for actual and punitive damages up to *three times* the amount of unpaid wages involved, plus court costs and attorney's fees; recovery of unpaid wages is limited to 6 years prior to the date of the last violation of the Act. In addition, the court may also order that the complainant be hired, reinstated or promoted, depending on the circumstances of the case.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In lieu of filing suit in court, an aggrieved employee may file a discrimination claim with the state agency responsible for enforcing the Human Rights Act (see previous entry).

PRIVATE CIVIL ACTION — As noted above, the Fair Pay for Women Act may be enforced through the state court system.

HEALTH AND SAFETY

OCCUPATIONAL HEALTH AND SAFETY ACT

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 – 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.9(A)

GENERAL SUMMARY: The Occupational Health and Safety Act imposes a duty on most New Mexico employers to furnish their employees with a job and workplace free from recognized hazards likely to cause death or serious physical harm to the workers. To assure safe and healthful working conditions, the Act provides for (1) the adoption and effective enforcement of occupational health and safety regulations, (2) state-administered education and training programs for employers and employees, aimed at preventing occupational injuries and illnesses, and (3) appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. New Mexico's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Authorized representatives of the Department may enter any place of employment in the state at reasonable times, question the employer and workers, and inspect pertinent working conditions and facilities in connection with enforcement of the Occupational Health and Safety Act. Any worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations. If investigation of the complaint discloses an infraction, the Department must promptly notify the employer and set a reasonable time for corrective action. The citation may also propose an administrative penalty, and if the employer fails to respond, the citation and proposed penalty are deemed a final Department order and are not subject to review by any court or agency.

OCCUPATIONAL HEALTH AND SAFETY ACT (FIELD SANITATION)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.11

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state Environmental Improvement Board has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. New Mexico's field sanitation standards are essentially the same as those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but apply to any agricultural establishment where employees are engaged on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL HEALTH AND SAFETY ACT; MISCELLANEOUS LABOR LAWS (AGRICULTURAL TOOLS)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25 and § 50.4.31

RELATED REGULATIONS: N.M. Code R. § 11.5.4.10

GENERAL SUMMARY: Under rulemaking authority in the Occupational Health and Safety Act and a provision in the state labor statutes outlawing mandatory use of short-handled hoes, the state Environmental Improvement Board has adopted limitations on the use of certain tools for weeding and thinning of crops by hand.

SPECIFIC TERMS AND CONDITIONS: On any farm or at any agricultural establishment where workers are employed on any given day in hand-labor operations in the field, the use of a hoe, knife or fork less than 4 feet in length for weeding and thinning crops is prohibited.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of this provision.

OCCUPATIONAL HEALTH AND SAFETY ACT (EMERGENCY MEDICAL CARE)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.12

GENERAL SUMMARY: Under rulemaking authority in the Occupational Health and Safety Act, the state Environmental Improvement Board has adopted a regulation related to emergency medical care for agricultural workers in the field.

SPECIFIC TERMS AND CONDITIONS

FIRST AID — Where there are no clinic or hospital facilities in near proximity to an agricultural workplace, one or more workers or other individuals must be adequately trained to render first aid. Adequate first aid supplies must be readily available.

EMERGENCY WASHING FACILITIES — Where a worker or other person in the agricultural work area may be exposed to corrosive materials (including agricultural chemicals, among other substances), the employer must provide suitable facilities for immediate flushing or drenching of the eyes and body in the event of an emergency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of this provision.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

OCCUPATIONAL HEALTH AND SAFETY ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.2.9(A)

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted standards regulating temporary labor camps provided by employers for the use of their workers. New Mexico's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of the temporary labor camp standards.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.M. Stat. §§ 51-1-1 - 51-1-59

GENERAL SUMMARY: The Unemployment Compensation Law authorizes the payment of weekly cash benefits to workers who are temporarily jobless, and for that purpose requires most employers in the state to contribute to the unemployment compensation fund in proportion to their taxable payroll. In general, employers are required to pay UI taxes if they (1) paid wages of \$450 or more for non-agricultural employment in any calendar quarter of the current or preceding calendar year, (2) paid wages of \$1,000 or more for domestic service, or (3) employed at least one worker in non-agricultural services for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash remuneration of \$20,000 or more for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed in agricultural labor 10 or more workers for any part of a day in 20 or more different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state. Employers liable for contributions generally pay an amount equal to the employer's state-assigned tax rate, multiplied by the wages paid to each employee during the calendar year, up to a per-worker wage limit equal to 60 percent of the statewide average annual earnings.

ELIGIBILITY FOR BENEFITS — Like any other claimant, an unemployed farmworker not otherwise disqualified is eligible to receive unemployment compensation only if he or she (1) has made a claim for benefits, (2) has registered for work and continued to report at the state employment office, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding application for benefits, earned wages from insured employment in at least two of those four quarters.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is defined as 53.5 percent of the average weekly wage for insured work paid to the claimant in the one quarter of the four-quarter base period mentioned above when earnings were highest. In no case, however, may the benefit amount may be less than 10 percent or more than 53.5 percent of the statewide average weekly wage for insured work. The actual payment for any given week of partial or total unemployment is equal to the weekly benefit amount, minus that part of any wages earned that week which exceeds 1/5 of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Bureau, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (toll-free 877-664-6984). The Department is in charge of the state's unemployment insurance system, including determining employer liability for UI contributions, collection of contributions, determining eligibility for UI benefits, and making benefit payments. Hearings involving disagreements over tax liability and benefit eligibility are also part of the Department's role in the UI program. Unemployment compensation claims may be filed by phone, at 877-664-6984, or online at www.jobs.state.nm.us.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ WORKERS' COMPENSATION ACT

STATUTORY CITATION: N.M. Stat. §§ 52-1-1 - 52-1-70

GENERAL SUMMARY: The Workers' Compensation Act requires most New Mexico employers who have 3 or more workers to pay compensation to any such worker who is injured in a job-related accident, or to compensate the dependents of such a worker whose death stems from a job-related accident. Compensation includes the payment of medical costs incurred as a result of the worker's injury or death, and cash disability or death benefits in lieu of lost wages. For permanent partial disability, benefits are paid for a fixed period of time, based on the percentage of disability and the part of the body that is injured.

Every employer subject to the Act must meet the liability for payment of compensation either by filing proof of workers' compensation insurance coverage or comparable security with the state administering agency, or by applying to the state agency for a certificate as a self-insurer. The state agency is authorized to apply to district court to enjoin from further business operations in the state any employer who fails to file the required evidence of compliance.

PROVISIONS APPLICABLE TO AGRICULTURE: As written, the Workers' Compensation Act **does not apply** to farm and ranch laborers, but please see special note below.

SPECIAL NOTES OR ADVISORIES

INVALIDATION OF FARM AND RANCH LABOR EXCLUSION — In an opinion issued on June 30, 2016 (Rodríguez v. Brand West Dairy, 2016-NMSC-029), the New Mexico Supreme Court found that the exclusion of farm and ranch workers from coverage of the Workers' Compensation Act violates Article II, Section 18 of the New Mexico Constitution and amounts to arbitrary discrimination. Consequently, workers' compensation claims filed by farm and ranch workers after August 4, 2016, are covered to the same extent as claims by other covered employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125 (505-841-6000; toll-free 800-255-7965).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O NEW MEXICO OCCUPATIONAL DISEASE DISABLEMENT LAW

STATUTORY CITATION: N.M. Stat. §§ 52-3-1 - 52-3-60

GENERAL SUMMARY: With very few exceptions, the New Mexico Occupational Disease Disablement Law makes every employer in the state liable for the payment of compensation to any employee who suffers total disablement by reason of an occupational disease arising out of the worker's employment, or compensation for the dependents of any such worker whose death results from such an occupational disease. Compensation includes the payment of medical expenses associated with the compensable disease or death, as well as cash benefits to the worker or the worker's dependents to cover loss of wages.

To meet the liability for occupational disease compensation, subject employers are required either to submit proof of occupational disease compensation insurance coverage or comparable security to the state administering agency, or to apply to the state for a certificate of exemption as a self-insurer. Failure by an employer to evidence compliance may result in loss of authority to continue business operations in New Mexico.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employers who elect coverage voluntarily, the New Mexico Occupational Disease Disablement Law **does not apply** to employers of agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE CONTROL ACT

STATUTORY CITATION: N.M. Stat. §§ 76-4-1 – 76-4-39

RELATED REGULATIONS: N.M. Code R. § 21.17.50 and § 21.17.56

GENERAL SUMMARY: The Pesticide Control Act regulates the sale, distribution and use of pesticides in New Mexico, in part by requiring the licensing of pesticide applicators, requiring the inspection of pesticide application equipment, and outlawing certain acts involving pesticide products. The state agriculture department is expressly authorized to adopt related regulatory standards consistent with statutory intent.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION —

Private Agricultural Applicators — No private applicator may use a restricted-use pesticide in agricultural operations without first being certified by the state. Certification requires an understanding of basic pesticide product labeling and competence in the use and handling of the particular pesticide or pesticides to be applied. As a further precaution, private applicators must obtain a user permit prior to purchase of the product.

Commercial Applicators and Operators — It is unlawful for anyone to engage in the business of applying pesticides to someone else's land without a commercial pesticide applicator license issued by the state. Likewise, employees of commercial applicators must be licensed as pesticide operators. Licensing in both commercial categories requires as a prerequisite completion of an examination to demonstrate competence to perform the respective pesticide use functions safely.

INSURANCE AND BONDING — The state may not grant a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility, consisting of a liability insurance policy or a surety bond protecting persons who may suffer legal damages as a result of the licensee's operations. Current regulations require minimum liability coverage of \$50,000 for bodily injury and property damage (\$100,000 for aerial pesticide applicators) or a surety bond of \$100,000.

INSPECTION OF EQUIPMENT — Equipment used for the commercial application of pesticides must be inspected annually by the state agency. Any piece of equipment which fails inspection must be tagged with an "Out of Order" seal and may not be put back into service until it has passed re-inspection.

STORAGE AND DISPOSAL OF PESTICIDES — Pesticides must be stored in a manner that will not result in injury to humans, vegetation, crops, livestock, wildlife or beneficial insects, or the pollution of any waterway.

RECORDKEEPING — Commercial and non-commercial applicators are required to make a record of each application of pesticides within 24 hours after the job is completed, whether the product is applied by the applicator or someone under the applicator's direct supervision. The record must include, among other data, the name of the person for whom the pesticide was applied, the target pest and the crop or site involved, the date and time of the application, identifying information on the product applied, the wind velocity and temperature at the time and place of application, and the concentration and amount of the substance applied.

PROHIBITED PRACTICES — Among other acts defined as violations of the Pesticide Control Act and which constitute grounds for denial, suspension or revocation of a license or permit are these:

- (1) Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- (3) Refusing or failing to keep required records or to make required reports.
- (4) Applying pesticides without the proper certification or license.

No one, whether licensed or not, may transport, distribute or dispose of a pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

DAMAGE REPORTS — Anyone suffering loss or damage from the use or application by others of any pesticide may file a report of the loss with the state enforcement agency within 60 days from the time the loss or damage becomes known to the claimant. If inspection of the alleged damages discloses evidence that the complaint has merit, the agency's report will be made available to the parties involved. While filing of a damage report is not mandatory, a claimant's refusal to allow the state agency or a representative of the applicator's insurance or bonding company to inspect the alleged damage or injury will effectively preclude prosecution of the claim.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Compliance, New Mexico Department of Agriculture, Las Cruces, New Mexico 88003 (575-646-2733). The Department is responsible for testing and licensing pesticide applicators in the state, monitoring their compliance with the Act and its regulations, and investigating pesticide-related complaints. For these purposes, representatives of the Department are authorized to enter any public or private premises, with the consent of the owner or by court order, to inspect pesticide equipment, inspect land exposed to pesticides, inspect storage and disposal areas, and sample pesticide residues in soil and on crops. The Department may file a criminal complaint, punishable as a petty misdemeanor, for any violation of the Act. The filing of charges also exposes the violator to liability for a civil penalty of up to \$1,000.

○ OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.9

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. New Mexico's hazard communication regulations are nearly identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of the hazard communication standard.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ OCCUPATIONAL HEALTH AND SAFETY ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 – 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.9(A)

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: The state Environmental Improvement Board has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. New Mexico's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).

WAGES AND HOURS

MINIMUM WAGE ACT

STATUTORY CITATION: N.M. Stat. §§ 50-4-19 - 50-4-30

GENERAL SUMMARY: The Minimum Wage Act requires most New Mexico employers who have at least one employee to pay their workers no less than \$7.50 for every hour of employment.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERED EMPLOYEES — In general, farmworkers employed on a farm or other establishment that used more than 500 worker-days of agricultural labor during any calendar quarter in the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are entitled to the state minimum wage of \$7.50 an hour. Subject employers who furnish food, supplies, housing or utilities to an employee engaged in agriculture may count the reasonable value of such furnished items as wages in meeting their minimum wage liability.

EXCEPTIONS — The minimum wage does not apply to any worker who (1) is employed as a hand-harvest laborer paid on a piecework basis in a crop activity traditionally regarded as a piecework operation in the local region, (2) commutes daily from home to the worksite, and (3) was employed in agriculture for less than 13 weeks during the preceding year. Also exempt are workers 16 years of age or younger who are employed as hand-harvest workers in traditionally piecework operations, employed on the same farm as their parents or guardian, and paid the same piece rate as adult workers on the same farm.

SPECIAL NOTES OR ADVISORIES

PERSONS WITH A DISABILITY — In order to prevent curtailment of opportunities for employment, the enforcement agency may issue special certificates providing for the employment of individuals whose earning or productive capacity is impaired by disability or injury, at wages that are lower than the state minimum wage, but not less than 50 percent of such wage.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (505-841-4400). A subject employer who violates any provision of the Minimum Wage Act is liable to the employees affected in the amount of their unpaid minimum wages and an additional equal amount as liquidated damages. A worker may recover unpaid minimum wages by filing a claim with the Department, which is obligated to investigate the claim and is authorized to collect it if investigation confirms a violation. Independent of civil liability, employers found to have violated the Act are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative claim with the Department of Workforce Solutions, a worker may recover wages, damages, court costs and reasonable attorney's fees in a private civil suit against the employer, utilizing outside legal assistance.

○ MINIMUM WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: N.M. Stat. §§ 50-4-19 - 50-4-30

GENERAL SUMMARY: In addition to establishing a statewide wage floor, the Minimum Wage Act generally obliges employers in New Mexico to pay overtime compensation, at $1^1/2$ times the worker's regular hourly pay rate, for every hour an employee is required to work in excess of 40 hours in any week of seven days.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL WORKERS — The overtime provision of the Minimum Wage Act *does not apply* to agricultural workers.

COTTON GIN WORKERS — For an aggregate period of up to 14 weeks in any calendar year, the overtime provision also *does not apply* to any employer of workers who are engaged in the ginning of cotton in any county where cotton is grown in commercial quantities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ MINIMUM WAGE ACT (MAXIMUM HOURS)

STATUTORY CITATION: N.M. Stat. § 50-4-30

GENERAL SUMMARY: A provision in the Minimum Wage Act makes it a misdemeanor for most employers in New Mexico to require an employee to work more than 16 hours in any one day of 24 hours, except in emergency situations.

PROVISIONS APPLICABLE TO AGRICULTURE: The 16-hour maximum day provision does not apply to farm and ranch workers whose duties necessitate working longer hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O WAGE PAYMENT LAW

STATUTORY CITATION: N.M. Stat. §§ 50-4-1 - 50-4-12

GENERAL SUMMARY: The state wage payment law regulates paydays, wages at termination, and payroll recordkeeping, and establishes a state-administered process for receiving, investigating and enforcing wage claims and laborers' liens.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage payment law **does not apply** to employers of agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATUTORY CITATION: N.M. Stat. §§ 7-3-1 - 7-3-13

GENERAL SUMMARY: The Withholding Tax Act requires every employer who deducts and withholds a portion of an employee's wages for payment of federal income tax, to also deduct and withhold for each payroll period an amount specified in the state withholding tax tables to cover the worker's liability for state income tax. Taxes withheld under these provisions must be forwarded to the state by the employer no later than the 25th day of the month following the month of required withholding.

No later than the last day of February, the employer is required to provide the employee with a written statement showing the total amount of wages paid to the employee throughout the year and the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in New Mexico must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Audit and Compliance Division, New Mexico Department of Taxation and Revenue, Santa Fe, New Mexico 87502 (505-827-0940).

New York

		•	CW TOTK	
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New York

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: N.Y. Labor Law §§ 130 – 145

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, § 190-9.2

GENERAL SUMMARY: The New York child labor law establishes a minimum age of 14 for most employment in the state, limits the types of work and the working hours of minors in discrete age groups below 18, and specifies certain trades and occupations that are deemed especially hazardous and therefore prohibited for most minors.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — An exception to the general ban on employment of children under 14 is made for the hand harvest of berries, fruits and vegetables, work in which 12- and 13-year-old youth may engage for up to 4 hours a day, between the hours of 9:00 a.m. and 4:00 p.m. (between 7:00 a.m. and 7:00 p.m. between June 21 and Labor Day), and at times when school is not in session. To be lawfully employed, however, each such minor (1) must have a farm work permit issued by the local school district, and (2) must be accompanied on the job by a parent, or present the employer with the written consent of the parent or guardian.

CHILDREN AGE 14 and 15 — On those days and during those hours when school attendance is not required, a minor 14 or 15 years of age may be employed in an agricultural job only if the child has a farm work permit issued by the school district and signed by the employer. The maximum hours and time-of-day restrictions generally applicable to this age category *do not apply* to farm labor.

CHILDREN AGE 16 and 17 — As long as school attendance is not required, minors 16 and 17 years of age may be employed without a work permit in agricultural occupations on a farm. The hours limitations otherwise applicable to 16-year-olds during school sessions *do not apply* to farm labor.

HAZARDOUS OCCUPATIONS — Among the farm-related occupations identified in the statute as hazardous and thus prohibited to minors of any age are (1) adjusting belt-driven machinery, and (2) work as a helper on a motor vehicle. Although the state labor commissioner is authorized to investigate particular agricultural activities that may be dangerous to minors or injurious to their health, no regulations prohibiting or limiting employment of minors in any such occupations have been adopted.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Through the agency's district offices, compliance officers of the Department may examine employment certificates and work permits of minors found employed in any workplace or on any job in the state. If anyone apparently under 18 years old is employed without authorization or otherwise contrary to the child labor laws, the Department may require the employer to cease employing the minor or file evidence within 10 days that the minor is employable. An employer who violates any of these provisions may be assessed a civil penalty of up to \$1,000 for a first violation, up to \$2,000 for a second violation, and up to \$3,000 for a third or subsequent violation. For violations that involve a minor who is seriously injured or dies, the penalty is triple the maximum otherwise allowable under these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY EDUCATION LAW

STATUTORY CITATION: N.Y. Education Law §§ 3201 - 3234

GENERAL SUMMARY: Article 65, Part 1 of the state education statutes prescribes the age limits within which school attendance in New York is mandatory and restricts the employment of minors of compulsory school age.

PROVISIONS APPLICABLE TO AGRICULTURE

COMPULSORY ATTENDANCE — With only narrow exceptions not related to occupational classification, every minor from 6 to 16 years of age residing in any school district in the state must attend a public school or receive substantially equivalent full-time instruction.

PARENTAL RESPONSIBILITY — A person in parental relation to a child of compulsory school age is responsible for the child's attendance, regardless of the person's employment status or occupational classification.

EMPLOYMENT RESTRICTIONS — In general, no minor may be employed during the hours when attendance at school is required by the compulsory education provisions. Employment of a minor under 16 in work on a farm is prohibited at any other time as well, unless the child has been issued an employment certificate or farm work permit by the local school district. To obtain a farm work permit, the minor must present the issuing officer with evidence of age, the written consent of the minor's parent or guardian, and a certificate of physical fitness.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance requirement is enforced by the local school districts, through attendance supervisors and comparable officers employed for that purpose. In performing their duties, attendance officers may enter any business establishment or other place where minors are employed, examine on demand the employment certificates or work permits of such workers, and otherwise ascertain if any such child is required to be in school. Attendance officers may arrest without warrant any minor unlawfully absent from school and, observing due process, see that charges are brought against the parent or other custodian responsible for the child's attendance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — New York State Education Department, Albany, New York 12234 (518-474-5844). The Department has supervisory control over local enforcement of the compulsory attendance provisions and is authorized to withhold one-half of all public school moneys from any district which fails to enforce them.

→ WORKERS' COMPENSATION LAW (ILLEGALLY EMPLOYED MINORS)

STATUTORY CITATION: N.Y. Workers' Compensation Law § 14-A

GENERAL SUMMARY: Any minor who is injured in a job-related accident while employed in violation of the state child labor laws is entitled to receive double the amount of compensation benefits ordinarily payable under the Workers' Compensation Law. The first half of a double award is payable as a normal claim, but the second part must be paid personally by the employer, not the insurance carrier. Insurance to protect against the additional liability may not be purchased or sold.

In general, the Workers' Compensation Law applies to employers with one or more employees in any of 24 categories defined in the statute as hazardous.

PROVISIONS APPLICABLE TO AGRICULTURE: For the consecutive 12-month period beginning April 1 of any calendar year, a farm employer is subject to the Workers' Compensation Law, and is therefore liable for payment of double compensation for the injury or death of a child illegally employed, if the employer's expenditures for farm labor in the preceding year amounted to \$1,200 or more.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830). The Board is solely responsible for administration and enforcement of the workers' compensation program. Any dispute between the worker and an insurance carrier or employer regarding a compensation claim, including liability for double benefits under the child labor provision, should be referred to the Board.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). The state labor department is responsible for enforcing the age, hours and related employment standards that apply to child workers (see entry, New York — Child Labor — Age, Hours, and Related Standards).

CIVIL RIGHTS

HUMAN RIGHTS LAW

STATUTORY CITATION: N.Y. Executive Law §§ 290 - 301

GENERAL SUMMARY: The Human Rights Law, in part, declares as a civil right the opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability. The statute outlaws certain discriminatory practices by employers of 4 or more employees in all pursuits other than domestic service.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY EMPLOYMENT PRACTICES — It is unlawful for an employer of 4 or more workers in the state, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, to refuse to hire the individual, to discharge the individual from employment, or to discriminate against the individual in compensation or in the terms, conditions or privileges of employment. The use of any form of job application, or circulation of any employment notice or advertisement, which suggests a preference, specification or similar discrimination with respect to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status, unless such distinction is based on a bona fide occupational qualification, is generally prohibited. The term "age" in these provisions of the Human Rights Law applies to and is intended to protect workers 18 years of age and older.

COMPLAINTS — At any time within one year after an alleged act of employment discrimination, a person aggrieved by such an act may file a complaint with the state enforcement agency, which has 180 days to determine if it has jurisdiction and, if so, whether there is probable cause to believe the employer or other respondent charged in the complaint has engaged in an unlawful practice. When the agency finds probable cause, it must try to negotiate a conciliation agreement between the complainant and the respondent, but if informal efforts are still unsuccessful 270 days after the complaint is filed, the agency is required to call a public hearing to present formal charges. A final order in the case must be issued no later than 180 days after start of the hearing. If the agency rules in favor of the complainant, the order may require the respondent to take affirmative corrective action (such as hiring, reinstatement or upgrading of the employee or employees involved) and pay compensatory damages to the aggrieved parties.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or opposed any practice forbidden under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Human Rights, New York Executive Department, Bronx, New York 10458 (718-741-8402). Division personnel are authorized to investigate charges alleging a violation of the Human Rights Law and to bring such charges on their own initiative. The agency may hold hearings, subpoena witnesses, take sworn testimony, subpoena documents and records, and issue compliance orders, which are enforceable in court. Apart from civil liability, persons found to have willfully violated an order under the Human Rights Law are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative complaint with the Human Rights Division, or if a complaint filed with the Division has been dismissed on certain grounds, a person claiming to have been subjected to unlawful employment discrimination may seek damages and other relief in civil court, using private legal counsel or a public legal service provider. The exercise of the right to private civil action, however, precludes filing a complaint with the administrative agency with respect to the same grievance.

WAGE PAYMENT LAWS (EQUAL PAY)

STATUTORY CITATION: N.Y. Labor Law § 194

GENERAL SUMMARY: No employee in the private sector may be paid a wage at a rate less than that at which an employee of the opposite sex in the same establishment is paid for equal work on a job whose performance requires equal skill, effort and responsibility, and which is performed under similar working conditions. Employers are not, however, prohibited from using pay differentials based on a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or any other factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies to agricultural employment the same as employment in any other industry or trade.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Through its district offices, this agency is authorized to investigate complaints under the wage payment laws, including charges of unlawful sex discrimination in the payment of compensation. At its discretion, the Department may attempt to resolve disputes over equal pay, may take assignment of related wage claims, and may institute criminal prosecution for any violation. Failure to pay wages in conformity with the equal pay provision is also a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker who has been paid less than full wages as a result of illegal sex discrimination has a right to sue the employer in a private civil action, for recovery of the unpaid wages, damages and attorney's fees. Any such action must be commenced within 6 years from the date the wages were due.

GENERAL LABOR LAWS (RETALIATORY ACTION BY EMPLOYERS)

STATUTORY CITATION: N.Y. Labor Law § 740

GENERAL SUMMARY: Employers in New York are prohibited from taking retaliatory personnel action against an employee because the employee discloses, or threatens to disclose, to a supervisor or to a public agency or official an activity, policy or practice of the employer that is in violation of a law or regulation, when the violation presents a substantial and specific danger to public health or safety. Employers are also forbidden to retaliate against a worker for (1) providing information to or testifying before any public body conducting an investigation, hearing or inquiry into an employer's violation of a law or regulation, or (2) refusing or objecting to participation in an activity, policy or practice in violation of a law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural and non-agricultural employment, without distinction.

SPECIAL NOTES OR ADVISORIES

REQUIRED NOTIFICATION — The protection of an employee against retaliation for disclosing an employer's unlawful activity to a public agency or official does not apply unless the employee has brought the unlawful activity to the attention of a supervisor and has afforded the employer a reasonable opportunity to take corrective action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An employee who has been the target of a retaliatory personnel action in violation of these provisions may file a civil suit against the employer involved, using a private attorney or public legal service provider. Such a suit must commence no later than one year after the date of the alleged retaliation. If the worker's complaint is found to be valid, the court may reinstate the worker, compensate the worker for lost wages and benefits, and award reasonable attorney's fees and court costs.

HEALTH AND SAFETY

○ GENERAL LABOR LAWS (EMPLOYEE HEALTH AND SAFETY)

STATUTORY CITATION: N.Y. Labor Law § 200

GENERAL SUMMARY: Every place of employment in New York must be so equipped, arranged and operated as to provide reasonable and adequate protection to the life, health and safety of the workers employed there. To effectuate this general policy, the state labor commissioner may establish specific safety and health standards applicable to the various workplaces subject to this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as New York does not have an OSHA-approved job safety and health program in the private sector, effectively preempting the state's compliance authority in that area, the state labor department currently enforces **no standards** applicable to the occupational safety and health of private-sector agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

GENERAL LABOR LAWS (DRINKING WATER FOR FARM LABORERS)

STATUTORY CITATION: N.Y. Labor Law § 212

GENERAL SUMMARY: Article 7 of the state labor laws contains a provision requiring drinking water for farm laborers in the field.

SPECIFIC TERMS AND CONDITIONS: Every farm operator or food processor who employs or uses paid farmworkers or food processing workers must provide the workers with safe drinking water at the employer's expense. Water may be furnished in a portable container, but must be accessible to each site where such workers are on the job. The obligation to provide drinking water rests with the grower or processor, regardless of whether or not the workers are supplied or supervised by a farm labor contractor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

GENERAL LABOR LAWS (FIELD SANITATION FOR FARM LABORERS)

STATUTORY CITATION: N.Y. Labor Law § 212-D

GENERAL SUMMARY: Article 7 of the state labor laws contains a provision requiring field sanitation facilities for farm hand workers, farm field workers, and farm food processing workers.

SPECIFIC TERMS AND CONDITIONS: Every grower or processor who employs or uses paid farm hand workers, farm field workers or farm food processors must provide or make available to such workers toilet and handwashing facilities, including transportation to such facilities. The toilet and handwashing facilities must be located together, within a 1/4-mile walk of most of the workers (or at the closest point accessible by motor vehicle, if the terrain makes compliance with the 1/4-mile requirement impracticable).

Where 5 or more workers are employed in one location at the same time, at least one toilet and handwashing unit must be provided at the location for every 20 workers or fraction thereof. If there are more than 20 workers in one location at the same time and at least half the workers are women, the toilets must be separated by sex and designated as such with appropriate signs.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Since a violation of these requirements is defined in the statute as a misdemeanor, they may also be enforced in criminal court by local prosecuting attorneys. A first offense is punishable by a fine of from \$500 to \$1,000, up to 30 days' imprisonment, or both.

HOUSING

PUBLIC HEALTH LAW (LABOR CAMPS)

STATUTORY CITATION: N.Y. Public Health Law § 225(5)(m) and § 1330

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 10, Part 15

GENERAL SUMMARY: A provision in Article 2 of the Public Health Law authorizes the public health council to establish a state sanitary code to govern, among other concerns, farm and food processing labor camps occupied by 5 or more migrant workers. Such facilities may be operated only upon issuance of a state permit evidencing compliance with regulatory standards on sanitation, lighting and ventilation, fire hazard protections, maintenance and other camp specifications. A provision in Article 13, in turn, grants state and local health authorities the power to investigate and enjoin violations of the sanitary code at or in relation to labor camps.

SPECIFIC TERMS AND CONDITIONS: The following standards applicable to farm labor housing have been adopted and are currently in effect:

LICENSING — Without first obtaining a permit to do so, no individual, firm or group may use any property to house 5 or more persons (or allow any property under its control to be occupied by 5 or more persons), one or more of whom are employed as laborers in farm activities. Application for a migrant labor camp permit must be made annually, at least 30 days before the camp's first day of operation or occupancy.

MINIMUM STANDARDS — A migrant labor camp permit may not be issued unless the housing facility meets state regulatory requirements, key provisions of which are outlined below.

Location — The camp must be located at a site with adequate surface drainage and satisfactory sewage disposal facilities.

Structures — Buildings must be structurally safe, adequate in size, and maintained in sound condition.

Sleeping Quarters — There must be at least 50 square feet of floor area for each occupant over 2 years of age. A bed, cot or bunk, complete with springs and mattresses, must be provided for each occupant. Except in individual family units, separate sleeping areas are required for each sex.

Light and Ventilation — Adequate light and ventilation, in accordance with regulatory specifications, must be provided in all sleeping quarters, kitchens, dining rooms, and toilet rooms.

Heating — All rooms occupied between September 1 and June 1 must have properly vented heating facilities, capable of maintaining a minimum temperature of 68 degrees F. in each room (70 degrees, in housing constructed after May 1, 1997). The use of portable heaters other than those powered by electricity is prohibited.

Fire Safety — Sleeping and eating areas must have multiple exits, as specified in the regulations. There must be fire extinguishing equipment in a readily accessible place not more than 100 feet from each housing unit.

Water Supply — Every migrant labor camp must be served by a water supply that conforms with state sanitary standards. Water sources and distribution systems must be designed, constructed and maintained to provide protection against contamination or pollution. Water distribution systems must provide minimum pressure of 20 pounds per square inch.

Toilet Facilities — Convenient, sanitary toilet facilities are required at each camp, with no less than one unit for every 15 camp occupants. Toilets must be within a 200-foot walking distance of each sleeping room, but privies are not permitted any closer than 50 feet to any sleeping room, eating room or kitchen. New housing constructed after October 1, 1999, must be equipped with flush toilets only, and all privies must be replaced with flush toilets on or before that date.

Cooking and Eating Facilities — Camp owners and operators are required to furnish properly installed cook stoves in all individual units (at least 2 burners per unit) and congregate meal preparation areas (a minimum of 2 burners for every 5 occupants). Portable stoves other than those powered by electricity are prohibited. There must be adequate refrigeration capable of maintaining a temperature of not more than 45 degrees F., adequate space for the storage and preparation of food, and sufficient tables and seating for meal service.

Storage and Collection of Garbage — Adequate and sanitary facilities must be maintained for the storage and disposal of garbage and other refuse.

Bathing Facilities — Except in individual units, bathing facilities for men and women must be separate. There must be at least one showerhead and one wash basin for every 15 camp occupants; at facilities constructed after May 1, 1997, the showerhead ratio increases to 1 for every 10 occupants, and for wash basins increases to 1 for every 6. Such facilities must be supplied with hot and cold running water.

Laundry Facilities — Camp residents must be provided with no less than one wash tub, laundry tray or sink for every 25 persons, or mechanical washers in the ratio of one for every 50. Where machines are provided, there must also be one or more laundry trays or wash tubs for every 100 occupants. Facilities for drying clothes must also be provided.

MEDICAL FACILITIES — The camp operator must make arrangements for access to adequate medical care at or readily available to the camp. A functional first-aid kit must be kept in an accessible location on the grounds.

HAZARDOUS MATERIALS — Except for those needed for current household use, no flammable or volatile materials may be stored in or adjacent to rooms used for living purposes. Agricultural pesticides and toxic chemicals may not be stored in the housing area.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Community Environmental Health and Food Protection, New York State Department of Health, Albany, New York 12237 (518-402-7600). District offices of the Department (or county health departments, depending on the camps' location) are responsible for issuing operating permits for labor camps found to meet the standards outlined above, and for monitoring continued compliance by camp operators. Anyone with knowledge of a possible violation of the state labor camp regulations may file a complaint with the Department, and if an investigation or inspection confirms an infraction and the situation is not corrected within 2 days of written notice, the Department may seek an injunction in state court to compel compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — County health commissioners and local health boards may generally exercise the same authority as the State Department of Health in investigating any labor camp deemed a public nuisance or regarded as a potential threat to the health of its occupants. In performing such functions, local health authorities must apply the same statutory and regulatory standards enforced by the state agency.

GENERAL LABOR LAWS (FARM LABOR CAMP COMMISSARIES)

STATUTORY CITATION: N.Y. Labor Law §§ 212-B – 212-C

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 197

GENERAL SUMMARY: Article 7 of the state labor laws includes provisions regulating the operation of farm labor camp commissaries, defined as places where goods are offered for sale or lease and which are operated at or in connection with a farm labor camp.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No one may operate a farm labor camp commissary without a valid permit to do so issued by the state. The permit must be prominently displayed at the facility at all times.

POSTING OF PRICES — A permit-holder must keep posted in a conspicuous place at the commissary site the current prices of all goods (including meals) offered to consumers at the facility. Prices charged may not exceed the posted price.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). The Department is responsible for issuing farm labor camp commissary permits and enforcing compliance with the duties and restrictions imposed on commissary operators. A violation of the statutory and regulatory provisions applicable to such outlets may result in suspension, revocation, or refusal to renew the permit, as well as prosecution of the operator on misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: N.Y. Labor Law §§ 500 - 643

GENERAL SUMMARY: The Unemployment Insurance Law establishes a state unemployment insurance fund, into which most employers in New York are required to pay contributions in rough proportion to their payroll volume, and from which temporary cash benefits are authorized to be paid to workers who have recent earnings from insured employment but are unable to secure full-time work. With some exceptions, employers are liable for payment of UI contributions if they pay \$300 or more in wages in any calendar quarter.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other establishment is liable for unemployment insurance contributions if the establishment (1) has paid cash remuneration for agricultural labor amounting to \$20,000 or more in a calendar quarter, or (2) has employed 10 or more workers in agricultural labor on at least one day in each of 20 different calendar weeks in the current or preceding calendar year, or (3) is required to pay federal unemployment insurance taxes with respect to agricultural labor. The amount of an employer's contributions is generally figured as an annually prescribed percentage of the wages paid to each worker employed during the year, up to a taxable wage limit defined in the statute (currently \$10,900).

ELIGIBILITY FOR BENEFITS — In brief, UI benefits may be paid only to a claimant who (1) has filed a claim for benefits, (2) is ready, willing and able to work, (3) is not on paid vacation or holiday status, (4) is making an active search for work, (5) is not subject to any disqualifications or suspensions, and (6) meets all three of the following conditions:

- (a) During the first four of the last five completed calendar quarters immediately preceding the claim (the "base period"), had earnings in at least two of the four quarters.
- (b) During the four-quarter base period, earned total wages of at least $1^{1}/2$ times the amount earned during the one quarter when earnings were highest.
- (c) During the one quarter of the base period when earnings were highest, earned total wages of at least 221 times the state hourly minimum wage.

AMOUNT OF BENEFITS — The amount of weekly benefits to which an eligible claimant is entitled depends on the claimant's earnings in the high quarter of the four-quarter base period mentioned above, but is typically 1/25 or 1/26 of that sum. Benefit rates currently range from a minimum of \$100 to a maximum of \$430.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, New York State Department of Labor, Albany, New York 12240 (518-457-5713). Administrative authority over the unemployment program, including both the taxation and benefits provisions, is vested exclusively in the Department. Any question or complaint regarding either the liability of employers for payment of UI contributions on their workers' behalf, or the eligibility of workers for benefits, may be directed to this agency. UI claims may be filed by phone, toll-free at 888-209-8124, or online at https://applications.labor.ny.gov/Individual/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 1 - 401

GENERAL SUMMARY: The Workers' Compensation Law requires most New York employers with one or more workers engaged in certain specified hazardous occupations to provide compensation for the disability or death of an employee from an injury or occupational disease connected with the job, generally without regard to fault as a cause. Among the principal benefits for which the employer is responsible in such cases are payment of the cost of the worker's medical treatment and related care, and cash payments to the worker or the worker's surviving dependents to offset the loss of wages.

Employers subject to the law must secure the payment of compensation by either paying premiums to the state insurance fund, purchasing a commercial workers' compensation insurance policy, or furnishing the state with proof of financial ability to pay compensation directly. An employer who fails to obtain coverage under one of these three options is criminally liable.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator who, in the preceding calendar year, paid cash remuneration of \$1,200 or more for farm labor must provide workers' compensation coverage to all farm laborers employed during any part of the 12 consecutive months beginning April 1 of the current calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830). The Board is solely responsible for administration and enforcement of the workers' compensation program. In general, notice of a worker's injury or death on the job must be given to the employer within 30 days of its occurrence, and the employer is obligated to report an injury within 10 days after an accident. The employer must promptly provide such medical, surgical and related treatment as the injury or recovery process may require, and is liable for those expenses. Under most circumstances, a claim for compensation is not valid unless it is filed within 2 years of the worker's injury or death (or within 2 years of disablement, in the case of an occupational disease). Any dispute between the worker and an insurance carrier or employer regarding a compensation claim, continuation of benefits, or payment of medical costs may be appealed to the Board.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O DISABILITY BENEFITS LAW

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 200 - 242

GENERAL SUMMARY: The Disability Benefits Law provides temporary cash benefits to eligible employees who are unable to work due to an off-the-job injury or illness, or who have lost eligibility for unemployment insurance benefits because of illness or injury. Employers are required to (1) obtain coverage for disability benefits through the state insurance fund or from a disability benefits insurance carrier authorized by the workers' compensation board to write such policies, or (2) apply to the board for authorization to self-insure.

To help defray the cost of disability benefits, employers are authorized to withhold from the earnings of each covered employee an amount equal to 0.5 percent of the employee's wages each pay period, up to a maximum contribution of 60 cents per week.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Disability Benefits Law **does not apply** to services performed by farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New York State Workers' Compensation Board, Schenectady, New York 12305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O PAID FAMILY LEAVE BENEFITS LAW

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 200 - 242

GENERAL SUMMARY: Effective in January 2018, the Paid Family Leave Benefits Law provides temporary cash benefits to eligible employees who take time off from work in order to bond with a new child, care for a seriously ill family member, or be with a family member called to active military service. Employers are required to (1) obtain coverage for family leave benefits through the state insurance fund or from an insurance carrier authorized by the workers' compensation board to write such policies, or (2) apply to the board for authorization to self-insure.

To help defray the cost of family leave benefits, employers are authorized to withhold from the earnings of each covered employee an amount determined annually by the state administering agency, beginning in June 2017.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Paid Family Leave Benefits Law **does not apply** to services performed by farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New York State Workers' Compensation Board, Schenectady, New York 12305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: N.Y. General Business Law §§ 170 – 194

GENERAL SUMMARY: Article 11 of the state business statutes regulates the activities of employment agencies in New York, defined broadly as individuals, corporations, associations, agencies and other entities (implicitly including certain farm labor contractors) that, for a fee, attempt to procure jobs for persons seeking employment or furnish workers to employers seeking the services of employees.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open or operate an employment agency, as generally described above, without first obtaining a license to do so from the state. Among other prerequisites to issuance of an employment agency license, the applicant must pay a license fee and post a surety bond covering damages that may result from misrepresentation, fraud, deceit or any illegal act by the licensee while performing the functions authorized by the license.

RECORDKEEPING — For every job applicant referred to a job, licensees are required to keep a register of the date of application, the start date of employment, and the fee assessed for the employment agent's services. Similar data on the employers served by the agent must also be maintained.

LIMITATION ON FEES — An employment agency may not charge or accept a fee or other compensation for its services until after a job applicant has actually been matched with a job. The total fee for placement of a worker into agricultural employment of less than a month's duration is limited to 10 percent of the salaries or wages received by the worker over the life of the job, or 12 percent when one meal per working day is provided, 14 percent for two meals per day, and 18 percent for three meals and lodging. For a job lasting longer than a month, these same fee ceilings apply only to the first full month's salary or wages.

PROHIBITED CONDUCT — Among other illegal acts, it is unlawful for an employment agency (1) to circulate any false, fraudulent or misleading information, (2) to knowingly refer a worker to employment which violates state or federal minimum wage or child labor laws, or (3) to refer a worker to a workplace where a labor dispute is in progress without notifying the worker of that fact in writing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Apart from the Department's licensing function under the employment agency law, representatives of the Department are authorized to inspect the registers, receipt books and other records maintained by each employment agency, and to subpoen the records of any employer involved when there are grounds to believe a violation has been committed. Any worker who has been recruited or referred to a job by an employment agency or agent in apparent conflict with these provisions may file an oral or written complaint with the Department, which may suspend or revoke the agency's license and impose an administrative fine of up to \$500 if evidence presented in a hearing on the complaint confirms a violation. Non-compliance with the employment agency law is also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MIGRANT REGISTRATION LAW

STATUTORY CITATION: N.Y. Labor Law § 212-A

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 197

GENERAL SUMMARY: The Migrant Registration Law regulates the recruitment and employment of farmworkers and food processing workers in New York, by imposing certain duties on farm labor contractors and on operators of farms and food processing plants.

SPECIFIC TERMS AND CONDITIONS

FARM LABOR CONTRACTORS — In general, any person who (1) for a fee, recruits, transports, supplies or hires farm or food processing workers for a third party, or (2) recruits, transports, supplies or hires such workers and, for a fee, directs, supervises or controls their work, is subject to the following requirements:

Registration — No one may act as a farm labor contractor, as defined in brief above, without a valid certificate of registration issued by the state. On the registration application, the contractor must provide information on wages, working conditions, housing and other aspects of the agricultural services to be performed, and the application must be countersigned by each grower or food processor who utilizes those services.

Disclosure to Workers — A registered labor contractor is required to give a copy of the registration application, or a summary of the employment specifications included in the application, to each worker recruited or employed. This must be done no later than the worker's time of arrival in New York or, if the worker is not from out of state, no later than the time the job begins. A copy must also be kept posted at any camp in which the workers are housed.

Payroll Records — For each worker employed or supervised, contractors must keep a record of wage rates, wages earned, hours worked, units of production (for pieceworkers), deductions from earnings, and net pay.

Wage Statements — Each worker employed, supervised or paid by a farm labor contractor is entitled to receive a written statement from the contractor with every payment of wages, showing the employer's name and address, the worker's name, the wage rate, the wages earned, the number of hours worked, units of production, all deductions fully itemized and explained, and net pay.

GROWERS AND PROCESSORS — The owner or lessee of any farm or food processing plant in New York is prohibited from utilizing the services of a farm labor contractor unless the grower or processor has a certificate for that purpose issued by the state and the contractor is registered as described above. If the labor contractor fails to comply with the disclosure, recordkeeping, and wage statement requirements applicable to such operations, the state enforcement agency will notify the grower or processor, who will then be responsible for compliance. Furthermore, a farm operator or food processor may use the services of a farm labor contractor for not more than 5 days, and must countersign the contractor's registration application and forward it to the state agency within 24 hours after utilization of such services begins.

Any grower or processor who, without assistance from a farm labor contractor, brings 5 or more migrant farmworkers or food processing workers into New York must register with the state and comply with essentially the same disclosure, recordkeeping, and wage statement provisions applicable to registered labor contractors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Through its district offices, the Department is responsible for the registration of farm labor contractors, growers and food processors subject to the Migrant Registration Law, and for monitoring compliance with the statute's procedural requirements. If the Department finds that a contractor, grower or food processor has failed to comply with any applicable provision, has made a false statement in the registration application, or has given false or misleading employment information to a worker recruited or hired, the agency may revoke, suspend or refuse to issue or renew the party's certificate.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

○ NEW YORK STATE EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: N.Y. Labor Law §§ 700 - 718

GENERAL SUMMARY: In order to encourage collective bargaining and to protect employees in the exercise of freedom of association, self-organization and representation, the New York State Employment Relations Act explicitly enumerates the labor rights of employees in the state, defines certain unfair labor practices by employers, establishes a state-administered framework for conducting representational elections, and outlines procedures for preventing, reporting and resolving unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: The New York State Employment Relations Act does not apply to individuals employed as farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — New York State Public Employment Relations Board, Albany, New York 12220. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

ENVIRONMENTAL CONSERVATION LAW (PESTICIDES)

STATUTORY CITATION: N.Y. Environmental Conservation Law §§ 33-0101 - 33-1503 and §§ 71-2901 - 71-2915

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 6, Part 325

GENERAL SUMMARY: Article 33 of the environmental conservation statutes regulates the registration, commercial use, purchase, and custom application of pesticides in New York. Of immediate relevance to the agricultural workplace are provisions requiring certain permits and certification for the purchase and application of restricted-use pesticides, requiring the registration of pesticide businesses, and defining certain unlawful acts involving pesticide products. Article 71, in turn, delimits the state's powers and procedures in enforcing the substantive pesticide standards, and grants the enforcement agency authority to adopt additional regulatory controls over pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

PURCHASE PERMITS — With few exceptions, a purchase permit issued by the state is required for the purchase, possession or use of a restricted-use pesticide. The applicant for a purchase permit has to justify the need for the quantity and type of pesticide requested and must demonstrate sufficient knowledge and experience concerning the proper handling, application and disposal of the product. A permit is valid only for the compound and quantity indicated on its face and must be properly canceled by the seller at the time the product is purchased.

APPLICATOR CERTIFICATION — No one may engage in the commercial application of any pesticide, or the private agricultural application of a restricted-use pesticide, without first being certified by the state. An applicant for certification must show adequate knowledge and experience in the proper application of pesticides and the use of pesticide equipment by completing an examination. Certification is not valid unless the certificate-holder also has a valid identification card issued by the state agency.

PESTICIDE BUSINESS REGISTRATION — Apart from the preceding requirements, any individual or firm that performs commercial application of pesticides for hire must register with the state and meet state-prescribed standards of competence in the use of pesticides and pesticide equipment.

APPLICATOR RECORDKEEPING — Every application business and commercial applicator must keep a record of each application of any pesticide. Among other information, the record must include the date and location of the application, the pesticide and dosage applied, the target pest involved, and the total acreage treated.

UNLAWFUL ACTS — Among numerous other prohibited activities, it is illegal for anyone (1) to detach, alter or deface any part of the labeling on a pesticide product, (2) to store or dispose of a pesticide or pesticide container in a manner contrary to state regulations, (3) to purchase, possess or use a restricted-use pesticide without a purchase permit or a certified applicator identification card, (4) to apply pesticides commercially without a certified applicator identification card (unless working under the direct supervision of a certified applicator), or (5) to engage in the pesticide application business without being registered.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Pest Management, Division of Materials Management, New York State Department of Environmental Conservation, Albany, New York 12233-7250 (518-402-8652). The registration of pesticide application businesses in the state, the certification of pesticide applicators, and the issuance of pesticide purchase permits is administered exclusively by the Department. In enforcing compliance with the rules applicable to the purchase and use of pesticides, the Department may conduct investigations, hold hearings, subpoena witnesses and documents, and take sworn testimony. Whenever the Department finds, or has probable cause to believe, that a pesticide is being used in violation of the state pesticide laws, the agency may issue a stop-use order requiring immediate cessation of the pesticide operation involved. Anyone who violates the pesticide provisions is liable to a civil penalty of up to \$5,000 for the first violation, assessed by the Department and enforceable in court by the state attorney general. Acts prohibited under the pesticide laws are also deemed a criminal offense, punishable by fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

• LABOR LAW (TOXIC SUBSTANCES)

STATUTORY CITATION: N.Y. Labor Law §§ 875 – 883

GENERAL SUMMARY: Article 28 of the state labor statutes requires employers to provide certain notifications to their employees regarding toxic substances in the workplace, to establish an education and training program for employees routinely exposed to such substances, and to observe related recordkeeping duties. These provisions apply to all places of employment and protects all classes of employees in New York except domestic workers and casual laborers.

SPECIFIC TERMS AND CONDITIONS

NOTICE REQUIREMENTS — Every subject employer must post a sign at every workplace where employee notices are normally posted, to inform workers of their right to receive information from their employer regarding the toxic substances found on the job, a description of their toxic effects, and the circumstances under which those effects are produced.

EMPLOYEES' RIGHTS — Workers or their representatives may request, and have a right to receive from the employer, the following information relating to toxic substances to which they may be exposed at the place of employment:

- (1) The generic, chemical, trade and common names of each such substance.
- (2) The location of each substance at the workplace.
- (3) Its properties and the acute and chronic effects of exposure.
- (4) The symptoms of exposure at hazardous levels.
- (5) The potential for flammability, explosion or reactivity.
- (6) Appropriate emergency treatment.
- (7) Proper conditions for safe use and exposure.
- (8) Cleanup procedures for leaks and spills.

Employers must furnish the desired information no later than 72 hours after receipt of a written request. If the information is not forthcoming within this timeframe, the worker or workers affected may not be compelled to work with any substance on which information was requested.

EDUCATION AND TRAINING — Every employer is obligated to provide each employee with an education and training program prior to initial assignment to a task that may involve exposure to a toxic substance, and to repeat the program annually thereafter. Education and training must cover the same subject matter itemized above in the discussion of employees' rights.

RECORDKEEPING — Employers must keep a record of the name, address, and Social Security number of every worker who handles or uses any material on the U.S. Occupational Safety and Health Administration's list of toxic and hazardous substances (29 CFR Part 1910, Subpart Z).

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after a suspected act of retaliation, a worker may file a complaint with the Department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

MINIMUM WAGE ACT

STATUTORY CITATION: N.Y. Labor Law §§ 650 – 665

GENERAL SUMMARY: The Minimum Wage Act establishes a general wage floor for every hour of employment, applicable to virtually all employers in New York whose employees are not explicitly excluded from coverage. The minimum wage currently varies by area; the rates effective during 2017 are shown here:

New York City — Establishments with 10 or Fewer Employees, \$10.50 per hour

New York City — Establishments with 11 or More Employees, \$11.00 per hour

Nassau, Suffolk and Westchester Counties — \$10.00 per hour

Remainder of the State — \$9.70 per hour

The minimum wage will rise to \$15.00 an hour statewide by 2021.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Act does not apply to workers who are employed in labor on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ LABOR LAW (FARM WORKER MINIMUM WAGE)

STATUTORY CITATION: N.Y. Labor Law §§ 670 - 683

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 190

GENERAL SUMMARY: Article 19-A of the state labor statutes establishes a statewide agricultural minimum wage, defined to equal the state minimum wage described in the previous entry, which is currently \$9.70 per hour outside the New York City metropolitan area. The agricultural minimum wage applies to farmworkers employed on farms with an annual agricultural payroll of at least \$3,000.

SPECIFIC TERMS AND CONDITIONS

COVERAGE AND MINIMUM WAGE — Every farm employer who paid at least \$3,000 in farm wages during the preceding year is required to pay its workers no less than \$9.70 for every hour of each employee's labor in the current calendar year.

BASIS FOR PAYMENT — The minimum wage applies whether the wage is paid on an hourly, piecework, commission or some other basis. For any given workweek or pay period, the worker's gross pay may not be less than the prescribed minimum hourly rate, multiplied by the number of hours the worker was on the job during that period.

ALLOWANCES FOR MEALS, LODGING, AND UTILITIES — With some exceptions, employers who provide meals to a worker may deduct \$1.70 per meal from the worker's gross wages, provided the worker earns no less than \$254 in a two-week period. Likewise, an employer who provides lodging and utilities may deduct up to \$12.65 per week for multiple-occupancy housing, up to \$5.00 per day for an individual worker living alone, or \$8.00 a day for an individual worker residing with his or her family.

PROHIBITED DEDUCTIONS — A covered employer is not allowed to make any deduction from a worker's pay for breakage or spoilage, cash shortages or losses, or fines or penalties for tardiness, misconduct or quitting without notice.

PAY STATEMENTS — For each pay period, the employer is required to furnish each worker a statement showing (1) the number of hours worked, (2) the worker's hourly or piece-rate wage, (3) the piece-rate unit and number of units produced, if applicable, (4) gross wages, (5) allowances and deductions, and (6) net wages.

FINAL PAY — Workers who are terminated must receive their full, final pay no later than the next regular payday after termination, along with a written statement showing total gross and net earnings and listing all deductions from gross pay.

NOTIFICATIONS — At the time of hire, a farm employer subject to these provisions must give each worker a written statement outlining the conditions of employment, including among other items (1) the employer's name, address and phone number, (2) the location and type of work, (3) the housing arrangements, including costs, (4) allowances, if any, to be deducted for meals and lodging, (5) any benefits to be provided by the employer, (6) the wages to be paid and the pay schedule, (7) the period of employment, (8) all other planned payroll deductions, and (9) any overtime provisions. This same information must be posted by the employer in a conspicuous place on the farm.

EMPLOYER RECORDS — Every covered employer must keep a record of the name, address and Social Security number of each farm employee, the worker's total hours per day and week, the number of piecework units produced (if applicable), the wage rate paid, gross wages, deductions and allowances claimed, and any cash advances made to the worker. For any minors they employ, employers must document the minor's name, address, birthdate, parent or guardian's name and address, and the number of the farm work permit issued to the minor if required.

FARM LABOR CONTRACTORS — For purposes of the minimum wage, if a farm labor contractor recruits or supplies farmworkers for work on a farm, the workers are deemed employees of the owner, lessee or operator of the farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). For the purpose of examining records relating to wages and working hours and of ascertaining compliance with the agricultural minimum wage standards, representatives of the Department are authorized to enter any place where agricultural workers are employed. On behalf of a farmworker paid less than the applicable minimum wage, the Department may bring necessary legal action to collect the unpaid portion plus interest, and may assess an additional 25 percent of that amount as a civil penalty.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, a worker has a right under these provisions to recover unpaid minimum wages in a private civil suit, using outside legal counsel. A judgment in the worker's favor may include liquidated damages, court costs and attorney's fees. Whether filed by the Department or privately, civil action must be commenced within 6 years of the date the wages first became due.

MINIMUM WAGE ACT (OVERTIME PAY)

STATUTORY CITATION: N.Y. Labor Law §§ 650 - 665

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 142

GENERAL SUMMARY: The Minimum Wage Act authorizes the state labor commissioner to appoint a wage board to investigate wages and working conditions in any occupational category, and to recommend adoption of rules regulating wages, overtime pay, piece rates, meal and lodging allowances, and other matters affecting wages and hours in the occupation or occupations under study. After an opportunity for public hearing, the commissioner has authority to issue a wage order implementing any or all of the board's recommendations.

PROVISIONS APPLICABLE TO AGRICULTURE: Because the Minimum Wage Act excludes workers employed in labor on a farm, the overtime pay requirements in the wage orders adopted by the labor commissioner **do not apply** to farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR LAW (LEGAL DAY'S WORK)

STATUTORY CITATION: N.Y. Labor Law § 160

GENERAL SUMMARY: Article 5 of the state labor statutes includes a provision making 8 hours a legal day's work in most trades and occupations in New York, but permitting longer workdays as long as employees are provided with increased compensation for overtime hours.

PROVISIONS APPLICABLE TO AGRICULTURE: The legal day's work provision does not apply to workers engaged in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

• LABOR LAW (PAYMENT OF WAGES)

STATUTORY CITATION: N.Y. Labor Law §§ 190 - 199-A

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 190

GENERAL SUMMARY: Article 6 of the state labor statutes regulates the payment of wages, including the frequency of payments, the medium of pay, wage deductions, pay notifications, and recordkeeping.

PROVISIONS APPLICABLE TO AGRICULTURE

FREQUENCY OF PAYMENTS — Regardless of the industry, workers classified as manual laborers generally must be paid weekly and no later than 7 calendar days after the end of the week in which the wages are earned. When an employee is terminated, the employer must pay final wages on or before the next regular payday.

MEDIUM OF PAY — In general, workers' wages must be paid in cash. An exception allowing wage payments by direct deposit to a bank, with the written consent of the employee, *does not apply* to employees working on a farm not connected with a factory.

WAGE DEDUCTIONS — It is unlawful for an employer to make any deduction from the wages of an employee unless the deduction (1) is authorized by law, regulation or court order, or (2) is expressly authorized in writing by the worker and is intended to cover insurance premiums, health benefits, union dues, or similar purposes. Furthermore, an employer is forbidden from making any charge against wages or requiring a worker to make any payment as a separate transaction, unless the charge or payment is permitted as a wage deduction as described in the previous sentence.

NOTIFICATIONS — At the time of hiring, every employer must advise each new worker of the rate of pay and the regular designated payday. The worker must be notified of any change in the paydays prior to the time of the change.

PAY STATEMENTS — Every employer must furnish each employee with a statement with every payment of wages, listing gross earnings, deductions, and net pay. If requested by the worker, the employer must also provide an explanation of how such wages were computed.

RECORDKEEPING — Employers are required to maintain, and preserve for not less than 6 years, payroll records showing the hours worked, the rate or rates of pay, gross wages, deductions, and net pay for each employee.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Any worker who has not been paid in accordance with these provisions may file a complaint or claim with the nearest district office of the Department, which is obligated to investigate and attempt to resolve such controversies equitably. The Department may take assignment of any wage claim in trust and sue to collect it on the claimant's behalf. Employers who fail to pay their employees' wages are subject to civil money penalties, enforceable by the Department in court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — In lieu of filing a claim with the Labor Department, a worker may elect to recover unpaid wages in civil court, using a private attorney or public legal service provider.

TAX LAW (PERSONAL INCOME TAX)

STATUTORY CITATION: N.Y. Tax Law §§ 601 - 699

GENERAL SUMMARY: Article 22 of the state tax statutes imposes a tax on certain personal income, including all employment earnings of New York residents and that portion of the earnings of non-residents which is derived from or connected with New York sources. Every employer maintaining an office or transacting business in the state and making payment of any wages subject to the state personal income tax must deduct and withhold from each worker's wages for each payroll period an amount calculated to approximate the worker's state income tax liability on such wages. The amounts withheld must be periodically forwarded to the state or a designated tax depository, for credit against the worker's year-end liability. On or before February 15 of the succeeding year, the employer must provide the worker with a written statement showing the amount of wages paid to the worker and the amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: According to state tax rules, wages are subject to state income tax withholding to the same extent as they are subject to withholding of federal income tax. Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in New York must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Collections and Civil Enforcement Division, New York State Department of Taxation and Finance, Albany, New York 12227 (518-591-1980).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

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	General Employee Housing Standards	•	Occupational Safety and Health Act of North Carolina (Temporary Labor Camps)	517
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North Carolina

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	General Employee Transportation Safety			
Transportation	Farmworker Transportation Safety	•	Motor Vehicle Laws (Motor Carriers of Migratory Farm Workers)	524
	Other			
	Minimum Wage	0	Wage and Hour Act	524
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Wages and Hours	Hour Standards			
	Wage Payment and Collection	•	Wage and Hour Act (Wage Payments)	525
	Agricultural Liens			
	Income Tax Withholding	•	Revenue Act (Income Tax Withholding)	526
	Other			

CHILD LABOR

○ WAGE AND HOUR ACT (YOUTH EMPLOYMENT)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 - 95-25.25

GENERAL SUMMARY: The youth employment provisions of the Wage and Hour Act establish 14 as the minimum lawful age of employment in most trades and occupations in North Carolina, restrict the working hours of 14- and 15-year-olds in the state, require that rest breaks be provided at least every 5 hours for workers under 16, bar employment of most minors under 18 without a youth employment certificate, and forbid the employment of minors in occupations deemed hazardous or detrimental to the health and well-being of youth.

PROVISIONS APPLICABLE TO AGRICULTURE: The youth employment provisions do not apply to persons employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: N.C. Gen. Stat. §§ 115C-378 - 115C-389

GENERAL SUMMARY: Every parent, guardian or other person in North Carolina having charge or control of a child between the ages of 7 and 16 years must assure the child's continuous attendance at an approved public or private school for the duration of the public school session.

PROVISIONS APPLICABLE TO AGRICULTURE: The parent's obligation to assure school attendance generally applies without regard to the employment status or occupational classification of either the parent or the child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance law is enforced by the local schools, in conformity with rules established by the state board of education. When a child has accumulated 3 unexcused absences in a school year, the school principal must notify the child's parent or custodian of the child's excessive absences. After no more than 6 unexcused absences, the parent or guardian must be notified by mail of a possible violation of the law and the potential for prosecution if the absences cannot be justified. If, after 10 accumulated absences, school officials determine that the adult in charge has not made a good-faith effort to comply, they must refer the matter to the district attorney and county social services director. Violations are treated as Class 1 misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CRIMINAL LAWS (RECRUITING MINORS FOR OUT-OF-STATE EMPLOYMENT)

STATUTORY CITATION: N.C. Gen. Stat. § 14-40

GENERAL SUMMARY: Anyone who induces a minor to leave North Carolina for the purpose of employment, or employs and transports a minor out of the state, without the written consent of the parent, guardian or other person having authority over the child, is guilty of a misdemeanor punishable by a fine of up to \$1,000, a jail sentence of up to 6 months, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to all persons in the state and to all forms of employment, agricultural and non-agricultural alike.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by state and local law enforcement agencies, through prosecution in the criminal courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

EQUAL EMPLOYMENT PRACTICES ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-422.1 - 143-422.3

GENERAL SUMMARY: The Equal Employment Practices Act declares it a matter of public policy to protect and safeguard the right and opportunity of all persons in North Carolina to seek, obtain and hold employment without discrimination on account of race, religion, color, national origin, age, sex or handicap. The Act authorizes the state human relations council to receive, investigate and conciliate charges of discrimination by employers who regularly employ 15 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as their counterparts in non-agricultural industries, farm employers who regularly employ 15 or more workers are prohibited from discriminating against job applicants and employees with respect to employment when such discrimination is based on race, religion, color, national origin, age, sex or handicap.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Carolina Human Relations Commission, North Carolina Department of Administration, Raleigh, North Carolina 27699 (919-807-4420). The Commission may receive and investigate any complaint charging unlawful employment discrimination, including complaints referred by the U.S. Equal Employment Opportunity Commission. The Act directs the Commission to use its good offices to effect an amicable resolution of all such charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

○ OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0301 - .0302

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina defines the rights and duties of both employers and employees in reducing the incidence of on-the-job accidents and occupationally related illness. The Act imposes a duty on private employers in the state to furnish a job and workplace free from recognized hazards likely to cause death or serious injury to their workers, and requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. North Carolina's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). Authorized representatives of the Department may enter any establishment or workplace in the state at any reasonable time, to inspect working conditions, equipment and materials relevant to worker safety and health, to privately question the employer and employees, and to conduct other activities in connection with a routine inspection or investigation of a specific complaint. If there are reasonable grounds to believe an employer has not

fulfilled any duty prescribed in the state Occupational Safety and Health Act or has violated any provision of the Act, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (FIELD SANITATION)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0301 - .0302

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. North Carolina's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but are applicable to all agricultural establishments without regard to any specific number of employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). If there are reasonable grounds to believe an employer has not complied with the field sanitation standards, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0101

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. North Carolina's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). If there are reasonable grounds to believe an employer has not complied with the temporary labor camp standards, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MIGRANT HOUSING ACT OF NORTH CAROLINA

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-222 - 95-229.4

RELATED REGULATIONS: 13 N.C. Admin. Code 16.0101 – .0502

GENERAL SUMMARY: The Migrant Housing Act adopts certain federal housing standards and makes them applicable to virtually all migrant labor housing facilities in North Carolina. The law requires a state-issued certificate before such facilities may be occupied, and authorizes state inspections for the purpose of determining compliance.

SPECIFIC TERMS AND CONDITIONS

STANDARDS — With certain variations, the state has adopted the temporary labor camp standards established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards). In lieu of the OSHA provisions, however, migrant housing is subject to existing state rules governing (1) water quality and water sanitation, (2) collection, treatment and disposal of sewage, (3) heating systems, (4) fire safety, (5) food service, preparation and storage, and (6) bedding.

PRE-OCCUPANCY INSPECTIONS — Every person who owns or controls housing used as living quarters in North Carolina for workers required to be absent overnight from their permanent place of residence must request an inspection of the housing at least 45 days before it is occupied. In general, the facility may be occupied only if it has been certified by the state labor department or the U.S. Department of Labor to be in compliance with the standards adopted under this law. If the housing is fully compliant for two consecutive years, the owner or operator of the facility has the right to conduct its own pre-occupancy inspection, but the local health department must still inspect the water and sewage systems for compliance. In the year following a self-inspection, the state labor department must again conduct the pre-occupancy inspection.

POST-OCCUPANCY INSPECTIONS — After a migrant housing facility is occupied, inspections are normally allowable only if (1) workers and their families arrived before the anticipated occupancy date and were allowed to enter on a provisional basis, (2) the housing was subject to pre-occupancy inspection and found not to be in 100 percent compliance, (3) the operator has been assessed a civil penalty by the state labor department for violations during the previous year, or (4) a credible report of an alleged safety or health violation or hazard has been received from a government official or an individual with first-hand knowledge of the violation or hazard.

HOUSING DEEMED UNINHABITABLE — In the case of a migrant housing facility found to be uninhabitable but not reasonably expected to cause death or serious physical harm, any occupants thereof may be allowed to remain for a reasonable period, not to exceed 14 days, while the housing owner or operator attempts to locate alternative lodging for them. Any alternative housing must be provided at or below the cost the occupants were paying for the uninhabitable facility.

Occupied housing deemed uninhabitable and likely to cause death or serious injury cannot continue to be occupied, and the owner or operator must provide alternative housing at equal or lesser cost immediately.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). This agency has primary responsibility for inspecting migrant housing facilities under the Act, and for issuing certifications authorizing occupancy. The Department also has authority to investigate and respond to reports of alleged violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — North Carolina Department of Environmental Quality, Raleigh, North Carolina 27603 (877-623-6748). This agency is explicitly responsible for enforcing the water and sanitation regulations applicable to migrant housing, through inspections conducted by the local health departments.

INSURANCE AND COMPENSATION

■ EMPLOYMENT SECURITY LAW

STATUTORY CITATION: N.C. Gen. Stat. §§ 96-1 - 96-40

GENERAL SUMMARY: The Employment Security Law establishes a state unemployment insurance fund and requires most employers in the state to pay contributions to the fund on behalf of their employees. In turn, workers who have earned sufficient wage credits from insured employment and who meet other eligibility criteria are entitled to weekly benefits paid from the fund at times of temporary unemployment. With some exceptions, employers are required to pay UI contributions if they (1) paid wages of \$1,500 or more during any calendar quarter in the current or preceding calendar year, or (2) employed at least one person for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid \$20,000 or more for agricultural labor, or (2) for any part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed at least 10 individuals in agricultural labor, must pay contributions to the unemployment insurance fund. The amount of contributions payable is equal to the employer's wage expenditures for the year (subject to an annually prescribed per-worker wage limit), multiplied by the employer's assigned tax rate.

ELIGIBILITY FOR BENEFITS — An unemployed worker is generally eligible to receive benefits only if the state agency finds that the worker (1) has registered for work at the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned wages in covered employment in at least two of the four quarters, and (5) during the same four-quarter period, earned at least 6 times the statewide average weekly wage for UI-covered employment.

AMOUNT OF BENEFITS — For any week of unemployment, an eligible claimant is entitled to a weekly benefit roughly equal to the amount obtained by dividing the claimant's total earnings in the last two quarters of the four-quarter base period by 52. If the claimant has any earnings from part-time employment that week, that portion of the week's part-time earnings which exceeds 20 percent of the claimant's weekly benefit amount is subtracted from the benefit amount otherwise payable.

SEASONAL WORKER PROVISIONS — Workers who, prior to a claim for unemployment benefits, earned 25 percent or more of their wages from a pursuit designated by the state agency as seasonal (which may include many agricultural job activities) are subject to special rules for determining both eligibility for and the amount of UI benefits. In general, seasonal earnings may be counted in the benefit computations outlined above only with respect to unemployment that occurs during the designated active period or periods when seasonal operations are normally carried on. During any other time of year, UI eligibility and benefits may be figured using the worker's non-seasonal wages only.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Employment Security, North Carolina Department of Commerce, Raleigh, North Carolina 27611 (919-707-1000; toll-free 888-737-0259). DES has complete responsibility for operation of the unemployment insurance system in the state, including determination of employer liability for UI contributions, collection of contributions from liable employers, determination of worker eligibility for UI benefits, payment of benefits, and adjudication of liability and benefit appeals. Claims may be filed online, at www.ncesc.com.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ NORTH CAROLINA WORKERS' COMPENSATION ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 97-1 - 97-200

GENERAL SUMMARY: The North Carolina Workers' Compensation Act renders most private employers in the state who have 3 or more regular employees, liable for the payment of compensation for any employee injured in a job-related accident or disabled by an occupational disease. Among other benefits, compensation includes the cost of medical treatment and regular cash payments to the worker or the worker's dependents to offset loss of wages.

Every employer subject to the Act must either (1) secure coverage through a commercial policy of workers' compensation insurance, or (2) obtain a license from the state as evidence of financial ability to pay compensation directly. Failure to evidence compliance under one of these two options may lead to an administrative fine and criminal prosecution.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators who regularly employ 10 or more full-time non-seasonal farm laborers are subject to the Workers' Compensation Act, and farm laborers — even seasonal workers — employed by such an establishment are entitled to workers' compensation benefits for accidental injury, occupational disease or death sustained in the course of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Unit, North Carolina Industrial Commission, Raleigh, North Carolina 27699 (919-807-2525; toll-free 800-688-8349). The Commission is established under the Workers' Compensation Act to administer and enforce the state workers' compensation system. An employee or the representative of an employee who is injured or killed in a job-related accident, or disabled as a result of an occupational illness, must promptly notify the employer, normally within 30 days of the injury, death or disablement. An employer subject to the Act is immediately liable for required medical treatment and supplies, and if the worker is disabled by the injury, the employer is generally liable for compensation payments after the first 7 days of disability. The right to compensation, however, is barred unless a claim is filed within 2 years after the accident or onset of the illness involved. Any worker who has a dispute with an employer or insurance carrier regarding eligibility for compensation, or over the amount or duration of benefits, may apply to the Commission for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

NORTH CAROLINA PESTICIDE LAW OF 1971

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 – 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .0101 - .2203

GENERAL SUMMARY: The North Carolina Pesticide Law regulates the registration, sale, use, application and disposal of insecticides, fungicides, herbicides, defoliants and similar substances in the state. Of particular relevance to agricultural field workers, the pesticide law (1) requires the licensing and certification of applicators of such products, (2) establishes general guidelines for the handling, storage and disposal of pesticides, and (3) authorizes the state pesticide board to issue specific regulations relating to pesticide application procedures and other issues.

SPECIFIC TERMS AND CONDITIONS

LICENSING OF COMMERCIAL APPLICATORS — No one may engage in the pesticide application business at any time without a license from the state. Issuance of a license requires the applicant to demonstrate his or her technical qualifications to conduct such operations, as well as knowledge of the laws and regulations governing use and application of pesticides.

CERTIFICATION OF PRIVATE APPLICATORS — Farm operators who use or supervise the use of restricted-use pesticides on their own crops, and who are not licensed as commercial applicators, must be certified by the state as private applicators. Certification generally requires, among other conditions, that the applicant participate in a state-approved classroom training program dealing with pest control and pesticide safety.

RECORDKEEPING — All commercial pesticide applicators using ground application equipment must keep a record of all applications of restricted-use pesticides. The record must include, among other elements, the name of the applicator, the name and address of the person for whom the pesticide was applied, the location of the site treated, the name of the crop involved, the approximate acreage treated, the date of treatment, the name of the pesticide used, and the amount of the product applied.

PESTICIDE STORAGE — No pesticide may be stored in an unlabeled container, nor may such substances be stored in any food, feed, beverage or medicine container. Pesticides may not be stored in a manner that could lead to contamination of foods, feeds, beverages, eating utensils, or tobacco products, or could result in accidental ingestion by humans or domestic animals.

PESTICIDE DISPOSAL — It is unlawful to dispose of pesticides or pesticide containers in any way which could cause or allow such items to be dumped in the open, burned in the open, or dumped in the ocean or in some other body of water.

PROHIBITED ACTS — Among numerous other restrictions and offenses mentioned in the statute, it is unlawful for anyone:

- To transport, store or handle pesticides in such a manner as to endanger human life, the environment, food, feed or other products.
- (2) To store or dispose of pesticides or pesticide containers in a way that may cause injury to humans, vegetation, crops, livestock or wildlife, or pollute any water supply or waterway.
- (3) To detach, alter or deface all or any part of the labeling on a pesticide product.
- (4) To use a pesticide in a manner inconsistent with its labeling.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556).

Representatives of the Department may enter public and private property to inspect both the premises and equipment used in the storage or application of pesticides, and to investigate specific complaints of injury to humans, land or plants. Any person violating any provision of the pesticide law or the associated regulations is subject to a criminal fine, imprisonment or both. The Department may also impose civil money penalties for a range of violations, including unlicensed application of pesticides, failure to keep required records or make required reports, and use of pesticides contrary to product labeling.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

NORTH CAROLINA PESTICIDE LAW OF 1971 (AERIAL APPLICATORS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 - 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .1000

GENERAL SUMMARY: Generally above and beyond the conditions and restrictions that the North Carolina Pesticide Law imposes on ground users of pesticides in the state, the statute and associated regulations contain licensing, inspection and other compliance provisions explicitly related to the application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

LICENSING — The contractor and each pilot involved in aerial application of pesticides must be licensed. Among other qualifications for licensing, a pilot must generally have at least 125 hours and one year's flying experience in aerial pesticide application activities. An applicant who lacks the required experience may be licensed as an apprentice aerial pesticide pilot, authorized to apply pesticides from the air but only under the direct supervision of a fully licensed aerial applicator. While overseeing an apprentice, the supervising pilot must operate out of the same airstrip as the applicator and be available periodically throughout the day to provide advice and assistance.

AIRCRAFT INSPECTION — Each aircraft used in the application of pesticides must be inspected annually and must bear a license plate or decal issued by the state enforcement agency. The agency may also conduct unannounced aircraft inspections, to determine if equipment is properly calibrated and maintained.

COMPLIANCE WITH FEDERAL REQUIREMENTS — A license to engage in the aerial application of pesticides will not be granted to an applicant who has not met federal requirements governing agricultural aviation operations (see entry, U.S. — Pesticides & Agricultural Chemicals — Aerial Application Standards).

RECORDKEEPING — In general, within 72 hours after each aerial application, the contractor or pilot must complete a written record of the treatment. In addition to other required information, the record must show the name and address of the person for whom the pesticide was applied, the location of the farm or other site treated, the crop involved, the total number of acres treated, the date and time of the application, the name of the pesticide used, the amount applied per acre, and the name of the pilot.

APPLICATION STANDARDS — Among many other restrictions and conditions prescribed by regulation, no pesticide may be applied from the air while anyone other than those assisting in the application are in the target area. Aerial spray equipment must be free of leaks and have shut-off systems to prevent release of pesticides over non-target areas. Pilots are required to observe specified precautions to prevent drift, and to comply with special rules when applying pesticides in restricted areas such as the immediate vicinity of dwellings, public roads, and public buildings.

HANDLING AND LOADING OF PESTICIDES — Pilots or workers handling or loading any pesticide product whose label displays the word "Danger" must wear approved respirators and protective clothing, including chemical-resistant gloves and boots. Water and detergent for personal washing must be available at all handling and loading sites.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556). Apart from the licensing process, representatives of the Department may enter public and private property to inspect aircraft and related equipment used in the aerial application of pesticides, in connection with either routine compliance monitoring or investigation of a specific complaint of injury or damage.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

NORTH CAROLINA PESTICIDE LAW OF 1971 (WORKER PROTECTION)

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 - 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .1800

GENERAL SUMMARY: Under authority of the North Carolina Pesticide Law, the state pesticide board has adopted worker protection standards for agricultural pesticides.

SPECIFIC TERMS AND CONDITIONS

STANDARDS — North Carolina has adopted and currently enforces the worker protection standards developed by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

ADDITIONAL NOTIFICATIONS — In addition to the information required by the EPA regulations to be posted when workers are in a location where restricted-use pesticides have been applied within the last 30 days or a restricted-entry interval has been in effect, the specific time of day when each pesticide application was completed must be recorded immediately upon completion of the application. The farm employer is required to keep all such records for a period of at least 2 years from the specific time of day when each pesticide application was completed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ HAZARDOUS CHEMICALS RIGHT TO KNOW ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-173 - 95-218

GENERAL SUMMARY: In part and with some exceptions, the Hazardous Chemicals Right to Know Act requires employers who use or store hazardous chemicals in North Carolina to compile a list of each such substance on their property, to maintain a material safety data sheet for each hazardous chemical purchased, to provide the list and a data sheet for any substance on the list to anyone (including an employee) who requests such information, and to forward certain emergency information to local fire officials.

PROVISIONS APPLICABLE TO AGRICULTURE

FULL COVERAGE — Farm operations that employ more than 10 full-time employees are fully subject to the Act, key provisions of which are summarized as follows.

Hazardous Substance List — Employers must compile and keep current a list of each hazardous chemical normally used or stored at their farm or workplace in an amount exceeding 55 gallons or 500 pounds, whichever is greater. For each such substance, the list must include the name of the chemical, the quantity usually stored at the site, the location at the site where the material is normally stored, and the extent to which it is exposed to altered temperatures or pressure.

Material Safety Data Sheets — For each hazardous chemical purchased, employers must obtain from the manufacturer or distributor a current material safety data sheet, a document containing certain identifying information, health hazard and safety disclosures, handling precautions, and other prescribed data.

Right To Know — Any worker or any other person in the state is entitled to receive an employer's hazardous substance list, and a material safety data sheet for any substance on the list, by submitting a written request to the employer. The requested materials must be provided, at a fee not to exceed the cost of copying, within 10 days of receipt of the request by the employer.

Emergency Information — An employer who normally stores hazardous chemicals in the quantities cited above is required to furnish the fire chief having jurisdiction over the employer's farm or workplace with the name and telephone number of a knowledgeable representative of the employer who can be contacted in case of emergency or for further information.

PARTIAL COVERAGE — A farm operation that employs 10 or fewer full-time workers but which normally stores at least 55 gallons or 500 pounds of a hazardous chemical, whichever is greater, must comply only with the emergency information provision summarized in the preceding paragraph. Such employers are not subject to any other requirement of the Act.

SPECIAL NOTES OR ADVISORIES

WORKER TRAINING — Under North Carolina's OSHA-approved occupational safety and health program, farmworkers employed by an agricultural operation which employs more than 10 workers, or which operates a temporary labor camp, must also receive training by the employer regarding the hazardous substances found in the workplace.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (ANHYDROUS AMMONIA)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0101

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. North Carolina's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

■ MOTOR VEHICLE LAWS (MOTOR CARRIERS OF MIGRATORY FARM WORKERS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 20-215.1 - 20-215.5

RELATED REGULATIONS: 19A N.C. Admin. Code 03A .0201 - .0218

GENERAL SUMMARY: Article 6A of the state motor vehicle statutes regulates the transportation of certain migratory farmworkers in North Carolina to and from their places of employment.

SPECIFIC TERMS AND CONDITIONS

TRANSPORTATION STANDARDS — Any person, firm or corporation which, for compensation, transports 5 or more migrant farmworkers in North Carolina at any one time to or from the workplace, in any motor vehicle other than a passenger car or station wagon, must comply with state-prescribed minimum safety standards covering the following subject matter:

Vehicles — Vehicles used to transport workers must be equipped to meet or exceed specifications on coupling devices, lighting equipment, exhaust systems, rear-view mirrors, brakes, steering mechanisms, tires, windshield wipers, and warning devices.

Operating Rules — Migrant motor carriers, as defined in short above, must observe prescribed driving rules, guidelines for the distribution of passengers and load, and maximum hours of service by drivers. Individuals who operate vehicles covered by these provisions must meet minimum age and skill requirements, be in acceptable physical condition, and be properly licensed, all in accordance with specific regulatory standards.

Passenger Safety — Vehicles must be properly outfitted with fire extinguishers and first-aid equipment, must have adequate seating accommodations, and must comply with other passenger safety standards. The law also calls for periodic meal and rest stops and requires operators to observe limits on the passenger capacity of their vehicles.

EXEMPTIONS — The migrant motor carrier provisions do not apply to (1) any migrant farmworker transporting only the worker and the worker's immediate family, (2) the transportation of migratory farmworkers in a vehicle owned by a farmer to and from employment in the farmer's own operation, or (3) any common carrier certified or licensed by the state or federal government.

SPECIAL NOTES OR ADVISORIES

IMPLEMENTING REGULATIONS REPEALED — On November 1, 1991, the detailed state regulatory standards cited above and required under section 215.2 of the statute were repealed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These statutory provisions and minimum standards are enforced by state and local law enforcement agencies, which are authorized to stop any motor vehicle on the public streets and highways for the purpose of assuring compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Motor Vehicles, North Carolina Department of Transportation, Raleigh, North Carolina 27699 (919-716-6650). The Division is responsible for adopting and amending, as needed, the rules implementing the migratory farmworker motor carrier law.

WAGES AND HOURS

WAGE AND HOUR ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 - 95-25.25

GENERAL SUMMARY: The Wage and Hour Act establishes a statewide hourly minimum wage, generally defined as either \$6.15, or the federal minimum wage (currently \$7.25), whichever is higher. The state minimum wage is applicable to most lines of work in North Carolina not subject to a statutory exception.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage provision in the Wage and Hour Act does not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WAGE AND HOUR ACT (HOURS AND OVERTIME)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 – 95-25.25

GENERAL SUMMARY: In addition to establishing a minimum wage and other employment standards, the Wage and Hour Act generally requires subject employers to pay each covered employee at a rate not less than 1¹/2 times the employee's regular rate of pay for every hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision in the Wage and Hour Act **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE AND HOUR ACT (WAGE PAYMENTS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 - 95-25.25

RELATED REGULATIONS: 13 N.C. Admin. Code 12 .0101 - .0906

GENERAL SUMMARY: The Wage and Hour Act prescribes the conditions under which wage payments in North Carolina are to be made and imposes certain pay disclosure and recordkeeping requirements on the state's employers. With certain exceptions, these provisions apply to all employment in the state, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Employers must pay their employees' wages on a regular payday. Pay periods may be daily, weekly, bi-weekly, semi-monthly, or monthly. Bonuses, commissions or other forms of compensation may be paid as infrequently as once a year if prescribed by the employer in advance.

FORM OF PAYMENT — In accordance with administrative rules, acceptable forms of payment include cash, money order, negotiable checks, and direct deposit into an institution whose deposits are federally insured or an institution selected by the employee.

FINAL WAGES — Workers whose employment is discontinued for any reason must be paid all wages due on or before the next regular payday, and any bonus or other such compensation is payable on the first regular payday after the amount due can be determined. Compensation of any kind may not be forfeited unless the worker has been notified, in the formal manner described below, of the employer's policy regarding loss or forfeiture of compensation.

WITHHOLDING OF WAGES — It is illegal for an employer to withhold or divert any part of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the employer has a signed prior authorization from the worker indicating the purpose of the deduction. Furthermore, the cash value of loss or damage to an employer's property may not be deducted from an employee's wages unless the employee receives at least 7 days' notice of the amount to be deducted.

STATEMENT OF DEDUCTIONS — For each pay period in which any deduction from wages occurs, the employer must provide the worker with an itemized statement of deductions.

NOTIFICATION — At the time of hiring, employers must formally notify their new employees as to pay rates, compensation policies, and the day and place for payment of wages. In addition, workers must have access to a written statement or posted notice of the employer's policies regarding holidays, vacation pay and comparable matters.

RECORDKEEPING — The provision that requires most employers to make and preserve a record of wage payments and deductions with respect to each of their employees *does not apply* to anyone employed in agriculture.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699 (919-807-2796; toll-free 800-625-2267). Designated representatives of the Department are authorized to enter any place of employment to gather facts essential to determining both the employer's coverage under the Act and the employer's compliance with the Act's applicable provisions. With respect to a subject employer, the Department may inspect the workplace, examine payroll records, question employees, and investigate other pertinent facts. A worker may submit a claim for unpaid wages to the Department, which must attempt to collect a valid claim through informal methods prior to exercising its power to take court action on the worker's behalf to recover the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Labor Department, a worker may take private civil action against the employer, using outside legal assistance. Regardless of whether the action is brought by the Department or directly by the worker, any such suit must be filed within 2 years of the date the claim arose.

→ REVENUE ACT (INCOME TAX WITHHOLDING)

STATUTORY CITATION: N.C. Gen. Stat. §§ 105-163.2 - 105-163.24

GENERAL SUMMARY: The Revenue Act's income tax withholding provisions require every employer who pays any wages — as the term is defined in the U.S. Internal Revenue Code — to deduct an amount calculated to approximate the employee's state income tax liability for those wages, as determined by tax tables furnished by the state revenue department. The employer must remit withheld taxes to the revenue department monthly, quarterly or semi-weekly. On or before January 31 of the succeeding year, or within 30 days after the last wage payment is made, the employer must provide the employee with a statement showing (1) the employer's name, address and taxpayer identification number, (2) the employee's name and Social Security number, (3) the total amount of wages paid during the calendar year, and (4) the total amount of state income tax deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in North Carolina must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Carolina Department of Revenue, Raleigh, North Carolina 27640 (919-707-0880; toll-free 877-252-3052).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

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North Dakota

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: N.D. Cent. Code §§ 34-07-01 - 34-07-21

GENERAL SUMMARY: The child labor laws of North Dakota generally prohibit the employment of anyone under the age of 14, restrict the occupations open to minors under the age of 16, limit the working hours of such minors in most occupations, and require most employers to keep on file an employment certificate for every such minor in their employ.

PROVISIONS APPLICABLE TO AGRICULTURE

CHILDREN UNDER AGE 14 — No person, firm or corporation may employ a child under 14 years of age in any occupation during the hours when the public schools of the district in which the child resides are in session.

Outside local school hours, children under 14 may work in agricultural operations *exempt* from the maximum hours and time-of-day restrictions applicable to minors under 16 in most other occupations.

CHILDREN AGE 14 AND 15 — The need for an employment certificate and the maximum hour and time-of-day limitations applicable to most other 14- and 15-year-olds *do not apply* to 14- and 15-year-olds employed in agriculture.

HAZARDOUS OCCUPATIONS — The broad prohibition against the employment of minors under 16 in any activity statutorily declared or administratively determined to be hazardous or otherwise detrimental to the life, health or morals of such individuals, generally *does not apply* to children doing ordinary farmwork or operating farm machinery.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Local law enforcement officers may enter any workplace in their jurisdiction, inspect employment certificates, and otherwise investigate compliance with these provisions.

SCHOOL ATTENDANCE LAW

STATUTORY CITATION: N.D. Cent. Code §§ 15.1-20-01 - 15.1-20-04

GENERAL SUMMARY: Every parent, guardian or other person who resides within a North Dakota school district and has control over a child between the ages of 7 and 16 not otherwise exempted from attendance must send the child to a public or approved non-public school for the entire length of the public school session.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where a child's employment has been found by the local school board to be necessary to the support of the family, the obligation to assure school attendance generally applies without regard to the employment status or occupational classification of the parent, guardian or child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory school attendance law is enforced by teachers and administrators of the local school districts. If, after investigation by a school administrator, the absence of a child in the affected age bracket cannot be legally justified by the child's custodian, the violation must be reported to local law enforcement authorities.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

HUMAN RIGHTS LAW

STATUTORY CITATION: N.D. Cent. Code §§ 14-02.4-01 – 14-02.4-23

GENERAL SUMMARY: Chapter 14-02.4 of the North Dakota statutes declares it state policy to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, mental or physical disability, marital status, public assistance status, or the employee's participation in lawful activity off the employer's premises during non-working hours. To effectuate this policy in the area of employment, the law defines certain discriminatory practices forbidden of employers who have one or more employees for more than one quarter of the year, without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Among other prohibited acts, it is generally unlawful for a subject employer (1) to refuse to hire a job applicant, (2) to discharge an employee, or (3) to accord adverse or unequal treatment to a person with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff or other condition of employment, because of race, color, religion, sex, national origin, age, physical or mental disability, status with respect to marriage or public assistance, or participation in a lawful activity off the employer's premises during non-working hours. Advertising, publishing or otherwise indicating that individuals of a particular race, color, religion, sex, national origin, age, physical or mental disability, marital status, public assistance status, or who participate in lawful activity off the employer's premises during non-working hours are unwelcome, objectionable, not acceptable or not solicited is also illegal.

EXCEPTION — It is generally not discriminatory for an employer to refuse to hire a person, or to discharge an employee, on the basis of religion, sex, national origin, physical or mental disability, or marital status, in situations where religion, sex, national origin, physical or mental disability, or marital status is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Human Rights Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). The Department may receive and act on a complaint charging discriminatory employment practices at any time within 300 days of the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department, anyone claiming to be aggrieved by an act of employment discrimination may bring civil action in state district court against the employer or other entity alleged to be responsible, using private legal counsel or a public legal service provider. Any such action must be filed within 300 days of the alleged violation, but if a complaint is first filed with the Department, court action must commence no later than 90 days after the Department dismisses the complaint or issues a written determination.

EQUAL PAY LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-06.1-01 - 34-06.1-09

GENERAL SUMMARY: It is illegal for an employer to discriminate in the payment of wages in any occupation, by compensating an employee at a rate less than the rate paid to an employee of the opposite sex in the same establishment, for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Wage differentials, however, that are paid pursuant to an established seniority system, merit increase system or similar program that does not discriminate on the basis of sex generally are not regarded as unlawful.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law implicitly applies to agricultural employers and protects agricultural workers to the same extent as employers and workers in other industrial sectors.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Human Rights Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). With the consent of the employer or with a valid court order, representatives of the Department may enter any place of employment to inspect and copy payroll records, observe employment activities, question employees, and take other steps to determine compliance with the equal pay law. At the request of a worker paid less than the wage to which he or she is entitled under the law, the Department may bring legal action against the employer on the worker's behalf to collect the unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Instead of submitting an equal pay complaint to the Department, a worker may elect to file suit against the offending employer directly, using an outside attorney. Court action must be undertaken no later than 2 years after the claim arises. In a suit brought by the worker for a willful violation, the employer is liable in the amount of the worker's unpaid wages, plus an additional equal amount as liquidated damages.

GENERAL LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: N.D. Cent. Code § 34-01-17

GENERAL SUMMARY: No one carrying on any business in North Dakota may refuse to hire a job applicant or discharge an employee solely on the basis of age, when the reasonable demands of the position do not require an age distinction and the individual is otherwise qualified for the job. This provision does not, however, preclude operation of any retirement policy or system as long as the system is not used merely to evade the statutory prohibition against age discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination provision applies to all employment in North Dakota, without respect to industry or occupation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *None.* A violation of the age discrimination in employment provision is defined as a Class B misdemeanor and can be prosecuted as such by state's attorneys.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who has suffered damages due to an act of age discrimination in employment may pursue civil action against the employer involved, using a private attorney or public legal service provider.

HEALTH AND SAFETY

○ WORKERS' COMPENSATION LAW (SAFETY REGULATIONS)

STATUTORY CITATION: N.D. Cent. Code §§ 65-03-01 - 65-03-02

GENERAL SUMMARY: Apart from its insurance and benefit provisions, the state workers' compensation law authorizes the administering agency to issue and enforce safety regulations for the prevention of employee injuries at workplaces subject to the law. The state agency may raise by up to 10 percent the workers' compensation insurance premium rating of any employer who fails to comply with a rule or regulation established under this authority.

PROVISIONS APPLICABLE TO AGRICULTURE: North Dakota's workers' compensation law applies only to "hazardous employment," the statutory definition of which explicitly excludes agricultural service. Hence, the law **does not apply** to agricultural employers or workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Workforce Safety and Insurance, Bismarck, North Dakota 58503.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM WAGE AND HOUR LAW (ILLEGAL EMPLOYMENT CONDITIONS)

STATUTORY CITATION: N.D. Cent. Code § 34-06-05

RELATED REGULATIONS: N.D. Admin. Code 46-02

GENERAL SUMMARY: Among other offenses defined in the state minimum wage and hour law, it is unlawful for anyone in North Dakota to employ workers (other than commission-paid sales personnel) in unsanitary conditions or in surroundings otherwise detrimental to their health or morals. The state labor commissioner is authorized to prescribe sanitation standards and related regulations in any agricultural or non-agricultural occupation where conditions are found detrimental to the workforce.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite the labor commissioner's statutory authority to adopt health and safety regulations, there are currently **no standards** related to sanitation or other working conditions at agricultural workplaces in North Dakota.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ NORTH DAKOTA UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 52-01-01 - 52-07.1-09

GENERAL SUMMARY: The North Dakota Unemployment Compensation Law establishes a state unemployment compensation fund, into which most employers are compelled to pay contributions in proportion to their taxable payroll and from which cash benefits are paid to temporarily jobless workers who have recent earnings from insured employment. The requirement to pay UI taxes on their workers' behalf generally applies to employers who (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Unemployment insurance contributions are payable by each farm operator or other agricultural establishment that (1) paid cash remuneration of \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year. The amount of an employer's contributions is figured as an annually assigned percentage of the total wages paid to each employee over the calendar year, up to a per-worker wage limit equal to 70 percent of the statewide average annual payroll.

ELIGIBILITY FOR BENEFITS — An unemployed individual not otherwise disqualified is eligible to receive unemployment benefits only if the state administering agency finds that the worker (1) has made a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work, available for suitable work, and actively seeking work, (4) has been unemployed for a waiting period of one week, (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned wages for insured work in at least two such quarters totaling not less than 1½ times the earnings in the one quarter in which the worker's wages were highest, and (6) has a weekly benefit amount, discussed below, equal to at least \$43.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is roughly defined as 1/65 of the sum of (1) the worker's total wages for insured work paid during the two quarters of the four-quarter base period in which wages were highest, and (2) one-half the wages paid during the third-highest quarter. With respect to a particular week of unemployment, an eligible claimant is entitled to a UI payment equal to the worker's weekly benefit amount, minus any wages earned from part-time employment that week in excess of 60 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm

operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Unemployment Insurance Tax and Field Services, Job Service North Dakota, Bismarck, North Dakota 58506 (701-328-2814).* The Job Service administers all aspects of the unemployment compensation program, including determination of UI tax liability and collection of UI taxes from liable employers, determination of eligibility for UI benefits and payment of benefits to eligible unemployed workers, and resolution of appeals by employers and workers. UI claims may be filed by automated phone service, at 701-328-4995, or online at https://apps.nd.gov/jsnd/uiiaclaims/login.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 65-01-01 - 65-10-03

GENERAL SUMMARY: Every employer subject to North Dakota's workers' compensation law is required to pay premiums to the Workforce Safety and Insurance Fund, the assets of which are used to pay for medical, surgical and hospital services and supplies required by covered employees who are accidentally injured in the course of employment with a subject employer. If an accident results in death, or a disability of 5 days or more, the Fund will also pay cash benefits to protect the worker's dependents against loss of income.

Provided the employer is duly insured, the payment of compensation by the state for an employee's work-related injury generally relieves the employer of all further liability. On the other hand, an employer who fails to secure workers' compensation coverage is subject to criminal penalties and is liable to each employee for damages suffered by reason of injury sustained in the course of employment. In a damage suit by a worker or a worker's dependents against an uninsured employer, the employer may not claim as a defense that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risks involved in the job.

PROVISIONS APPLICABLE TO AGRICULTURE: North Dakota's workers' compensation law applies only to "hazardous employment," the statutory definition of which explicitly excludes agricultural service. Hence, the law **does not apply** to agricultural employers or workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Workforce Safety and Insurance, Bismarck, North Dakota 58503.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LICENSING LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-13-01 - 34-13-16

GENERAL SUMMARY: Chapter 34-13 of the state statutes regulates the business activities of employment agencies and agents in North Dakota, in part by requiring such entities to obtain a license from the state, to post bond as security against violations of conditions on the license, to disclose the amount of their fees and pertinent employment information to each worker referred to a job, and to observe certain recordkeeping duties and other specified rules of practice.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided the contractor employing the workers pays required Social Security and unemployment insurance taxes, provides required workers' compensation insurance coverage, and is responsible for the workers' job performance, the employment agency licensing law **does not apply** to farm labor contractors and others who employ workers to render part-time or temporary services to or for a farm operator or other third party.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

O NORTH DAKOTA LABOR-MANAGEMENT RELATIONS ACT

STATUTORY CITATION: N.D. Cent. Code §§ 34-12-01 – 34-12-14

GENERAL SUMMARY: The North Dakota Labor-Management Relations Act affirms the right of most employees in the state to self-organize, to form and join labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for their mutual aid or protection. Workers also enjoy the right to refrain from such activities. The Act defines certain unfair labor practices and authorizes the state labor commissioner to accept and resolve complaints charging any such practice. The commissioner also has the power to call and conduct secret-ballot elections among workers covered by the Act whenever a question of representation is raised or a dispute arises regarding authorization to strike.

PROVISIONS APPLICABLE TO AGRICULTURE: The Labor-Management Relations Act does not apply to agricultural laborers or farmers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

NORTH DAKOTA PESTICIDE ACT OF 1975

STATUTORY CITATION: N.D. Cent. Code §§ 4-35-01 - 4-35-30

RELATED REGULATIONS: N.D. Admin. Code 60-03-01

GENERAL SUMMARY: The North Dakota Pesticide Act regulates the distribution, transportation, storage, use and disposal of pesticides, plant regulators and similar substances in the state, largely by requiring the licensing of pesticide applicators and enforcing their compliance with application standards and procedural rules. The state agriculture department is expressly authorized to adopt and enforce administrative standards further regulating pesticides and pesticide users in North Dakota.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — In general, no one may purchase, use or supervise the use of any restricted-use pesticide for commercial purposes without being certified as a commercial pesticide applicator. Similarly, agricultural producers who intend to use restricted-use pesticides on their own property, or without compensation on agricultural lands belonging to another producer, must be certified by the state as private applicators as a precondition to buying, using or supervising the use of any such product. Among other violations for which a license or certification may be denied, suspended or revoked are the following:

- (1) Applying a pesticide in a manner inconsistent with its labeling.
- Operating faulty or unsafe equipment.
- (3) Refusing or neglecting to keep required records or make required reports.
- Operating unlicensed equipment.
- (5) Purchasing, using or supervising the use of a restricted-use pesticide without complying with certification requirements.

FINANCIAL RESPONSIBILITY — Applicants for commercial applicator certification must submit proof of financial ability to cover liability for damage or injury caused by their pesticide application activity. This requirement may be met by obtaining a performance bond or liability insurance policy in the amount of \$100,000, or a notarized letter from a financial institution or CPA confirming that the applicant has at least \$100,000 in net assets.

PESTICIDE STORAGE AND DISPOSAL — It is illegal for anyone to store or discard surplus pesticides or empty pesticide containers in a manner that would endanger humans, the environment, food, feed or other products.

APPLICATOR RECORDKEEPING — Commercial and private applicators must keep a record of all applications of restricted-use pesticides. Among other elements, each record must include the name and address of the person for whom the pesticide was applied, the location of the treatment and the specific crops and acreage involved, the pest or pests to be controlled, the date and time of the application, the name of the pesticide supplier, the name and amount of the product applied, the wind velocity and air temperature at the treatment site at the time of application, and a description of the equipment used in the application.

REPORTING OF PESTICIDE ACCIDENTS OR LOSSES — Any person claiming injury or damage by a pesticide applied by another party must report the incident to the applicator involved, and must allow the applicator to inspect the property or non-target organism alleged to have been affected. In general, no civil action for damages arising out of the application of a pesticide may be commenced unless the claimant has notified the applicator (1) within 28 days from the date the claimant knew the loss had occurred, or (2) before 20 percent of the crop or field allegedly damaged is harvested or destroyed, whichever period occurs earlier. Refusal by the claimant to permit examination of the damage automatically bars the claim.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Enforcement Program, North Dakota Department of Agriculture, Bismarck, North Dakota 58505 (701-328-4922). The Department is responsible for the certification of pesticide applicators and the enforcement of the statutory and regulatory standards applicable to pesticide use in the state. In addition to civil liability for damages caused by misuse or abuse of pesticide products, anyone who violates the Pesticide Act is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A person who has suffered damages from a violation of the Pesticide Act may take civil action against the applicator involved, using a private attorney or public legal service provider.

AERONAUTICS LAWS (AERIAL SPRAYING)

STATUTORY CITATION: N.D. Cent. Code § 2-05-18

RELATED REGULATIONS: N.D. Admin. Code 6-02-02

GENERAL SUMMARY: The state aeronautics statutes include a provision which regulates the aerial spraying of pesticides in North Dakota, largely by requiring the licensing of aerial pesticide applicators and their compliance with administrative regulations adopted by the state aeronautics commission under the law's rulemaking authority.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR LICENSING — Every person or firm engaged in applying pesticides commercially by aircraft must be licensed by the state aeronautics commission as an aerial applicator, and a license decal must be affixed to each aircraft used by the licensee for aerial pesticide operations. As a precondition for licensing, pilots generally must have at least 250 hours of flight time in command of the type of aircraft to be used for agricultural spraying and meet other experience-related qualifications. In addition, operators of aerial application businesses (or their chief pilots) must attend state-approved training, attend an annual aerial applicator safety meeting, or receive the information provided at the annual meeting.

FAA-licensed private pilots may apply pesticides by aircraft to their own land, provided they (1) meet experience criteria similar to those applicable to commercial aerial applicators, (2) provide the state licensing agency with a legal description of the land they own or farm, and (3) do not offer pesticide application services to others for hire or for any other form of compensation.

AIRCRAFT REGISTRATION — All airplanes and helicopters used for aerial application of pesticides must be registered with the state prior to actual use and prior to issuance of an aerial applicator's license to the aircraft's owner or operator. Each such aircraft must be in good functional condition, free from obvious points of leakage and equipped with prescribed shut-off valves to prevent discharge of pesticides over non-target areas.

RECORDKEEPING — The owner, operator, pilot or other person in charge of an aerial pesticide operation must make and preserve for at least 3 years a record of each pesticide application. The record must include the same information as required by the state agriculture department under the Pesticide Act, outlined in the previous entry. By December 1 of each year, the licensee must file an annual summary with the state aeronautics agency, indicating the total number of acres treated for each category of application.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Aeronautics Commission, Bismarck, North Dakota 58502 (701-328-9650). The Commission is responsible for licensing aerial pesticide applicators, registering aircraft used to apply pesticides, and monitoring compliance with the procedural requirements imposed on aerial operators. In addition to license revocation, aerial pesticide applicators who violate any of the provisions applicable to their operations are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

ANHYDROUS AMMONIA FACILITIES LAW

STATUTORY CITATION: N.D. Cent. Code §§ 19-20.2-01 - 19-20.2-10

RELATED REGULATIONS: N.D. Admin. Code 7-12-01

GENERAL SUMMARY: Chapter 19-20.2 of the state statutes regulates large-capacity facilities used to store anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer. A key section in the law provides for adoption of the 1989 American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia, which includes measures relevant to agricultural employees working with or in proximity to anhydrous ammonia on the farm and in the fields.

SPECIFIC TERMS AND CONDITIONS

CONSTRUCTION OF CONTAINERS — Tanks used for the storage and transportation of anhydrous ammonia must be constructed in accordance with detailed specifications referenced in the ANSI standards. All such containers must be equipped with prescribed gauges and valves and must be properly marked with required warnings. Hoses, valves and other fittings must meet specified safety standards.

ON-FARM EQUIPMENT — Tanks attached to farm wagons or trailers for transportation of anhydrous ammonia to and from the fields must be securely mounted, and each wagon or trailer must be securely attached to the tractor or other vehicle pulling it.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Enforcement Program, North Dakota Department of Agriculture, Bismarck, North Dakota 58505 (701-328-4922). In addition to its associated licensing authority, the Department is responsible for inspecting on- and off-farm installations for the storage of anhydrous ammonia and farm transportation vehicles designed to apply ammonia as an agricultural fertilizer. The Department may suspend or revoke the license of any storage facility, and may order the discontinuation of use of any farm implement, found in violation of these provisions. Violators may also be charged with a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE AND HOUR LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-06-01 – 34-06-22

RELATED REGULATIONS: N.D. Admin. Code 46-02-07

GENERAL SUMMARY: With relatively few exceptions, Chapter 34-06 of the state statutes makes it illegal for anyone in North Dakota to employ workers at wages less than \$7.25 per hour. The state labor commissioner, however, has authority to investigate wages and working conditions in any occupation and to adopt regulatory standards that may differ from those prescribed in the minimum wage and hour law.

PROVISIONS APPLICABLE TO AGRICULTURE: With no statutory or regulatory exceptions currently in effect, agricultural employees are generally entitled to the \$7.25 hourly minimum wage to the same extent as their counterparts in other industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). The Department is responsible for enforcing the wage and hour law, including resolution of wage disputes between employees and employers and collection of unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: N.D. Cent. Code §§ 34-06-01 - 34-06-22

RELATED REGULATIONS: N.D. Admin. Code 46-02-07

GENERAL SUMMARY: With some exceptions, Chapter 34-06 of the state statutes makes it illegal for anyone in North Dakota to employ workers for unreasonably long hours, and authorizes the state labor commissioner to investigate working conditions in any occupation and to adopt standards regulating working hours. Using that authority, the commissioner has issued an order requiring most employers to pay their employees at least 1¹/2 times their regular rate of pay for all work time in excess of 40 hours in any one week.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision in the minimum wage and work conditions order does not apply to any worker engaged in an agricultural occupation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE COLLECTION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-14-01 - 34-14-13

GENERAL SUMMARY: North Dakota's wage collection law, applicable to all classes of employment in the state, regulates paydays, medium of pay, the payment of final wages, and withholding.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must pay employees' wages at least once each calendar month, on regular paydays designated in advance by the employer.

MEDIUM OF PAY — Wages must be paid (1) in lawful U.S. currency, (2) by check, written on a bank convenient to the place of employment, (3) by direct deposit, to a financial institution of the employee's choice, or (4) with a stored-value debit or ATM card issued by a federally insured bank or credit union. The use of a stored-value card is optional for the employer and the employee.

FINAL WAGES — Whenever an employer discharges a worker, or when a worker quits or resigns, any unpaid wages must be paid by the next regular payday.

WITHHOLDING — Employers may withhold from a worker's wages only those amounts (1) authorized to be withheld under state or federal law, or by a court order, (2) authorized in writing by the worker, (3) deducted for repayment of a documented advance made by the employer to the employee, or (4) deducted for damage, breakage or similar cause and authorized by the employee at the time of the deduction.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). The Department is obligated to cooperate with any employee in the enforcement of a claim for unpaid wages lodged against an employer when it appears that the claim is valid, and when the claim is filed within 2 years from the date the wages are due. In investigating a wage claim, agents of the Department are authorized to enter any place of employment to inspect

payroll records, and may hold related hearings as necessary. When authorized by the worker, the Department may take legal action against the employer to collect the claim, which may include interest on the unpaid wages and, under certain circumstances, up to *three times* the unpaid amount as punitive damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INCOME TAX LAW

STATUTORY CITATION: N.D. Cent. Code §§ 57-38-01 - 57-38-75

GENERAL SUMMARY: Chapter 57-38 of the state statutes levies an annual tax on the income of residents and certain non-residents of North Dakota. With few exceptions, every employer in the state who makes wage payments subject to federal income tax withholding is required to deduct and withhold from such earnings a sum calculated to approximate the state income tax due on the worker's wages. The employer must forward withheld taxes to the state quarterly and, by January 31 of the following year, must furnish the worker with a statement showing the total compensation paid and amounts withheld for state income tax purposes.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in North Dakota must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — North Dakota Office of State Tax Commissioner, Bismarck, North Dakota 58505 (701-328-1247).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Ohio Rev. Code §§ 4109.01 - 4109.99

RELATED REGULATIONS: Ohio Admin. Code 4101:9-2-03

GENERAL SUMMARY: Ohio's child labor laws require minors to present an age and schooling certificate to employers as a prerequisite to employment under certain circumstances, prohibit employers from hiring anyone under the age of 18 in occupations which are deemed hazardous or detrimental to their health and well-being, limit the working hours of children under 16 years of age, and impose certain administrative duties and restrictions on employers of child labor.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND SCHOOLING CERTIFICATES — Farm operators and other agricultural establishments are generally prohibited from hiring anyone under the age of 18 who resides in an agricultural labor camp, as defined in the agricultural labor camp law (see entry, Ohio — Housing — Farm Labor Housing Standards), unless the child presents to the employer a valid age and schooling certificate obtained from the superintendent of the local school district. Such a certificate may not be issued to a child under the age of 14.

An age and schooling certificate is *not required* for agricultural employment by minors who do not reside in an agricultural labor camp.

HAZARDOUS EMPLOYMENT — Among other agriculturally related activities determined by the state industrial relations director to be a threat to the health and well-being of such minors, generally no one under 16 may be employed (1) in connection with the operation of a tractor of more than 20 horsepower, (2) in connection with the operation of a corn picker, cotton harvester, combine or any similar equipment, (3) in any job requiring work from a ladder or scaffold at a height of more than 20 feet, (4) as a driver of a truck, bus or car carrying passengers, or (5) in a job requiring the handling or application of certain agricultural chemicals or the application or transfer of anhydrous ammonia.

WORKING HOURS — With only narrow exceptions, it is illegal to employ a child under 16 during school hours. Such minors are generally authorized to work only between the hours of 7:00 a.m. and 7:00 p.m. (between 7:00 a.m. and 9:00 p.m. from June 1 to September 1, and during school holidays lasting 5 days or more). No one under 16 may be employed for more than 3 hours a day on any school day, for more than 18 hours a week in any week in which school is in session, for more than 8 hours on any non-school day, or for more than 40 hours in any week in which school is not in session.

REST PERIODS — Employers may not employ any worker under 18 for more than 5 consecutive hours without allowing the worker a paid or unpaid rest period of at least 30 minutes.

CONDITIONS OF COMPENSATION — Prior to hiring a minor in any occupation, the employer must reach agreement with the worker concerning the wages to be paid, whether on a time or piecework basis. The employer must furnish the worker with written evidence of the agreement, and on or before each payday must provide a statement of earnings due and the amount to be paid. No reduction in the agreed-upon wage rate is permitted without at least 24 hours' advance notice and completion of a new written agreement.

WITHHOLDING OF WAGES — No employer may retain or withhold any part of a minor's earnings because of presumed negligence on the worker's part, failure to comply with rules, breakage of equipment, or alleged inability to perform the job.

RECORDKEEPING — With respect to each agricultural employee under 18 who resides in an agricultural labor camp, a farm operator or other agricultural establishment is required to keep a time book or other written record showing the worker's name, address and occupation, the number of hours worked on each day of the week, the start and end time of each work interval and rest period, and the amount of wages paid each pay period.

The recordkeeping requirements do not apply to the employment of minors who do not reside in an agricultural labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). Representatives of the Department are authorized to enter places of employment where minors are at work, to examine age and schooling certificates, question workers and perform other investigative functions related to enforcement of the child labor laws. Upon discovery of a violation and after notice to the employer, the Department is obligated to file a complaint in the appropriate court. Whoever violates the child labor laws is guilty of a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The state superintendent of public instruction, the state director of health, the local school districts and local health departments all have inspection and complaint-filing authority comparable to that exercised by the Department of Commerce.

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Ohio Rev. Code §§ 3321.01 – 3321.99

GENERAL SUMMARY: Every parent or custodian of any child between 6 and 18 years of age who is not employed under an age and schooling certificate must send the child to a school or special education program that meets minimum state standards, for the full time the school or program is in session. During the regular school term, an age and schooling certificate may be issued only to a child over the age of 16 who has satisfactorily completed a vocational or special education program adequate to prepare students for an occupation.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory education laws apply irrespective of the occupational classification of the child of compulsory school age or the child's parent or custodian. Neither the child nor the custodian is excused from these provisions on grounds that the child's residence in Ohio is seasonal, that the parent is a resident of another state, or that the child has attended school for the legal period in another state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compulsory attendance is enforced by the local school boards, through attendance officers employed for that purpose. Attendance officers may investigate any case of unexcused non-attendance by a child under 18, as reported by school personnel or discovered through routine workplace inspections. When a child is not attending school as required, the attendance officer must warn the child and the child's parent or custodian in writing of the legal consequences of truancy and require corrective action. The parent's failure to assure the child's attendance thereafter may result in a formal complaint against the parent in court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Ohio Rev. Code § 4123.89

GENERAL SUMMARY: When an injury, occupational disease or death of a worker under the age of 18 is found to have been caused by a hazard encountered on a job in which the worker was illegally employed under the child labor laws, the worker or the worker's surviving dependents are entitled to an additional award of compensation, equal to 100 percent of the maximum award established by law for the injury involved, over and above the amount otherwise payable. The fact that the claimant was employed in violation of the child labor laws is irrelevant to determining the compensability of the injury and may entitle the worker to double benefits.

If benefits are paid from the state workers' compensation fund, the employer's insurance premiums will be increased by an appropriate amount for a fixed period of time, to assure that the additional award is fully recouped by the fund.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies to virtually all agricultural employers in Ohio, on the same terms as employers in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292). Any minor who suffers a job-related injury, or disablement due to an occupational disease, may file a claim by mail, or online at www.bwc.ohio.gov/bwccommon/forms/froi/default.asp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

CIVIL RIGHTS LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4112.01 - 4112.99

GENERAL SUMMARY: The state civil rights law defines certain unlawful discriminatory practices in employment and other settings, and establishes an administrative mechanism for reporting and resolving discrimination charges. The employment provisions of the civil rights law apply to employers that have 4 or more employees working in Ohio, in all industries and occupations other than domestic service and work connected with religious activities.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is illegal for a covered employer, because of the race, color, religion, sex, military status, national origin, disability, age or ancestry of any person, to discharge without just cause, to refuse to hire, or to otherwise discriminate against that person with respect to hire, tenure, the terms, conditions or privileges of employment, or any matter directly or indirectly related to employment.

Except when based on a bona fide occupational qualification certified in advance by the state enforcement agency, employers may not elicit information concerning a job applicant's race, color, religion, sex, military status, national origin, disability, age or ancestry, use any form of job application eliciting such information, publish any advertisement or notice indicating a preference for or bias against applicants on any of these grounds, or make any record of such characteristics prior to employment.

Comparable acts by employment agencies and labor organizations are also prohibited.

COMPLAINTS — Within 6 months after the occurrence of an alleged discriminatory employment practice, a person may lodge a complaint of a violation with the state enforcement agency. If the initial investigation suggests that the allegations are true, the agency must attempt to eliminate the unlawful practice by conference, conciliation and persuasion. Formal charges will be brought against the offending employer or other responsible party in the event informal efforts to obtain compliance are unsuccessful. If evidence presented in the ensuing hearing confirms that the respondent has, in fact, engaged in illegal discrimination, the agency will issue an order requiring cessation of the practice and appropriate affirmative action, which may include hiring, reinstatement, or upgrading of the job applicant or employee involved, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Ohio Civil Rights Commission, Columbus, Ohio 43215 (toll-free 888-278-7101). In processing complaints under the civil rights law, the Commission has the authority to examine personnel records and question the employer and employees at any workplace in the state, to hold hearings, to subpoena witnesses and documents, and to issue compliance orders, enforceable in the courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Workers subjected to an unlawful employment practice have a right to institute private civil action against the employer involved, using a private attorney or public legal service provider. Such a suit must be commenced within 180 days after the alleged practice occurred. With respect to discrimination on the basis of age, however, court action under the civil rights law automatically bars the complainant from filing an administrative charge with the Civil Rights Commission and from filing suit under the state's age discrimination in employment law (see next entry) with respect to the same complaint.

MINIMUM FAIR WAGE STANDARDS LAW (WAGE DISCRIMINATION)

STATUTORY CITATION: Ohio Rev. Code § 4111.17

GENERAL SUMMARY: No employer in Ohio may discriminate in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry, by paying wages to any employee at a rate less than the rate paid another employee at the same establishment for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar conditions. This provision does not, however, preclude wage differentials paid pursuant to a seniority system, a merit system, a system which measures earnings by the quantity or quality of production, or any similar pay arrangement in which wage levels are determined by factors other than race, color, religion, sex, age, national origin, or ancestry.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination provision generally applies to all Ohio employers, agricultural and non-agricultural alike.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). Any worker who has received less than equal wages as a result of an apparent violation of the wage discrimination provision may file a claim with the Department, which is authorized to accept assignment of the claim and sue on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee discriminated against in violation of this provision may sue in civil court to recover *two times* the amount of the difference between the wages actually received by the claimant and the wages received by a person performing equal work for the employer, from the date of commencement of the violation. A judgment in the worker's favor may also include court costs and attorney's fees. Whether filed by the worker or by the Department of Commerce, civil action must be initiated within one year after the date of violation.

AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ohio Rev. Code § 4112.14

GENERAL SUMMARY: It is unlawful for an employer to discriminate against an applicant with respect to a job opening, or to discharge an employee without just cause, when the applicant or employee is 40 years of age or older, is physically able to perform the duties of the job, and otherwise meets the established requirements of the position.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law implicitly applies to all agricultural employers, and protects all farmworkers in Ohio, the same as their counterparts in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Anyone 40 years of age or older who has been subjected to age discrimination in violation of this provision may file a civil suit against the offending employer, using a private attorney or public legal service provider. If the complaint is sustained, the court may order appropriate corrective action by the employer, including hiring or reinstatement on the job, plus court costs and attorney's fees. Civil action under the wage discrimination in employment law precludes bringing suit or filing an administrative complaint under the state civil rights law (see previous entry).

WHISTLEBLOWER'S PROTECTION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4113.51 – 4113.53

GENERAL SUMMARY: An employee who learns of a violation of a federal or state law that his or her employer has authority to correct, and who reasonably believes that the violation is a criminal offense likely to cause imminent risk of physical harm to people or a hazard to public health or safety, is required to notify a supervisor or other responsible officer of the violation, in writing and in sufficient detail. If the employer does not correct the violation or make a reasonable and good-faith effort to do so within 24 hours after the employee's report to a supervisor, the employee may file a written report of the matter with a prosecuting attorney, a peace officer or other appropriate public official or agency.

In general, it is illegal for an employer to take any disciplinary or retaliatory action against an employee for making any such report.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions protect virtually all Ohio workers, and apply to virtually all Ohio employers, both agricultural and non-agricultural alike.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — If an employer takes any disciplinary or retaliatory action against a worker because the worker reported unlawful activity within the employer's authority to correct, the worker may file suit in civil court for relief, using a private attorney or public legal service provider. The suit must be commenced within 180 days after the date the disciplinary or retaliatory action was taken. If the suit is successful, the court may award the worker back wages, reinstatement of employment and benefits, court costs and reasonable attorney's fees.

MISCELLANEOUS LABOR LAWS (COMPULSORY SALES TO EMPLOYEES)

STATUTORY CITATION: Ohio Rev. Code § 4113.18

GENERAL SUMMARY: No one may compel or attempt to coerce an employee to purchase goods or supplies from a particular person, firm or corporation.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against compulsory sales to employees applies to all employers in all trades and industries in the state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — When a complaint is received by a local prosecuting attorney, an alleged violation of this provision may be prosecuted as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private counsel or a public legal service provider, a worker forced to purchase tools, supplies or other goods in violation of this provision may file suit against the offending party. Such a worker is entitled to recover *double* the amount of the charges made for the merchandise, or *double* the amount paid in excess of its reasonable or current cash market value.

HEALTH AND SAFETY

GENERAL LABOR LAWS (SAFETY IN THE WORKPLACE)

STATUTORY CITATION: Ohio Rev. Code §§ 4101.11 - 4101.12 and §§ 4101.15 - 4101.16

GENERAL SUMMARY: Employers in Ohio have a general duty to furnish employment and a place of employment which are reasonably safe for their employees, to use safeguards and adopt practices conducive to workplace safety, and to take every other step reasonably necessary to protect the life, health and safety of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The employer's general duty to provide a safe place of employment implicitly applies to all agricultural employers, and protects all farmworkers in Ohio, the same as their counterparts in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). Every day during which an employer fails to observe or comply with these provisions constitutes a separate violation. Violators are subject to a fine of from \$50 to \$1,000 for a first offense, and from \$100 to \$5,000 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

→ AGRICULTURAL LABOR CAMP LAW

STATUTORY CITATION: Ohio Rev. Code §§ 3733.41 - 3733.99

RELATED REGULATIONS: Ohio Admin. Code 3701-33-01 - 3701-33-13

GENERAL SUMMARY: Chapter 3733 of the state statutes contains provisions regulating the operation of agricultural labor camps, defined in brief as one or more structures, trailers, tents or vehicles established or used as temporary living quarters for 2 or more families or 5 or more persons engaged in agriculture or related food processing.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND INSPECTION — No agricultural labor camp may be operated in Ohio without a license issued by the state. Anyone who intends to operate such a facility during the year generally must apply for a license before April 15 of that year. A license will not be issued unless tests indicate that the water supply meets prescribed standards, nor will a license be granted if any violations exist with respect to sanitation, drainage or habitability of housing units. In addition to inspection prior to occupancy, the state enforcement agency may make whatever other inspections it considers necessary to enforce these provisions.

LABOR CAMP STANDARDS — The public health director has adopted minimum standards of habitability which must be met before an agricultural labor camp license may be issued. Among the minimum requirements with which every camp must comply are those described briefly below.

Water Supply — The camp's water supply must be from a public water system that meets state requirements. By 2022, all camps must provide water under pressure to all housing units.

Sewage Disposal — Sewage must be discharged into a sanitary sewerage system approved by the state environmental protection agency or the local health department. Sewage disposal systems must be maintained so as not to create a nuisance or health hazard, or pollute water or waterways.

Housing Site and Units — The camp must be located on an adequately drained site. Any building in the camp that is not structurally sound must be repaired, sealed shut, demolished or removed. Dwellings must be soundly constructed and maintained in good repair and sanitary condition. Housing must comply with prescribed minimum floor space and ceiling height requirements.

Ventilation —Each habitable room must have at least two windows (or one window and a skylight) that open to the outside. Windows must meet prescribed size requirements in relation to floor space. All outside openings must be protected with tight-fitting screens or screen doors, in good repair.

Cooking Space — Cooking spaces must include mechanical refrigeration for storage of food at a temperature of not more than 41 degrees F., and a table and chairs (or equivalent eating arrangements). When cooking space is provided for 10 or fewer occupants, there must also be a stove with at least 2 burners, adequate food storage shelves, and a counter at least 5 square feet in size for food preparation. Fuel storage tanks and fuel lines connected to cooking or heating equipment must be properly installed and kept in safe condition.

Sleeping Facilities — A bed or bunk with a clean mattress must be provided for each occupant, in accordance with certain specifications and restrictions.

Toilet Facilities — Toilet facilities must be located in each dwelling unit, or within 200 feet thereof, and no toilet may be located in a room used for other than toilet or hygiene purposes. Except in individual family units, separate toilet facilities for each sex are required. Toilet facilities must be adequately lighted and ventilated and maintained in a sanitary condition. In general, there must be not less than one toilet for every 15 camp occupants.

Bathing Facilities — Wash basins and showers or tubs, in prescribed minimum numbers and supplied with hot and cold running water, must be provided for the use of all occupants and must meet detailed standards of construction. There must generally be at least one showerhead for every 10 camp occupants, and one wash basin for every 6 occupants. Except in individual family units, separate shower rooms for men and women must be provided and clearly marked as such.

Laundry Facilities — Laundry tubs, with hot and cold running water, must be provided in a ratio of one tub for every 25 occupants. Washing machines may be provided in lieu of tubs, in a ratio of one machine for every 50 occupants, but there must be at least one tub as well. Facilities for drying clothes are also required.

Heating — All housing units and service rooms used before June 1 or after August 31 in any year must be furnished with properly installed heating equipment capable of maintaining a temperature of at least 70 degrees F. Any heating equipment that utilizes combustible fuel must be properly vented and located, as prescribed in the standards. Electric portable heaters are allowable but must be equipped with automatic shut-off switches.

Electricity and Lighting — All camp sites must be provided with electric service. There must be specified numbers of light fixtures and wall outlets.

Trash Disposal — Adjacent to each housing unit, there must be a covered container for the storage of household garbage and trash, or approved bulk-type containers situated within 100 feet of the housing for common use. Arrangements must be made for the collection of refuse at least once a week, or more often if necessary.

Pest Control — The camp owner or operator must take effective, approved measures to prevent infestation of the camp by insects, rodents or other pests.

Safety and First Aid — Living areas must be designed with alternate means of escape in case of fire. Each housing unit must be equipped with at least one functioning wall- or ceiling-mounted smoke alarm, and there must be a prescribed fire extinguisher in good working order not more than 75 feet from each dwelling. Likewise, properly equipped first-aid facilities must be readily available for use at all times. Addresses and telephone numbers of emergency medical care providers must be posted at the camp at the same location where the camp license is displayed. No flammable materials except those needed for current household use may be stored near a habitable room, and agricultural pesticides and toxic chemicals may not be stored or mixed in the camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Labor Camp Program, Bureau of Environmental Health, Ohio Department of Health, Columbus, Ohio 43215 (614-644-7455). The Department is the designated licensing agency under the agricultural labor camp law and is likewise responsible for camp inspections. In connection with a license application, in response to a specific complaint, or on its own initiative, representatives of the Department may have access to any labor camp subject to the law, upon presentation of proper identification to the camp operator,

for the purpose of making an inspection. The license of any facility found in violation of the state standards may be denied, suspended or revoked, but unless an immediate public health hazard exists, the operator will normally be given a reasonable opportunity to make corrections before action against the license is taken. Violators of the labor camp law are subject to prosecution by the state attorney general or local prosecuting attorneys on misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The Department of Health is empowered to enter into an agreement with qualified local boards of health to enforce the agricultural labor camp standards, but authority to license camps and to suspend or revoke camp licenses cannot be delegated.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4141.01 - 4141.99

RELATED REGULATIONS: Ohio Admin. Code 4141-29-02

GENERAL SUMMARY: The unemployment compensation law establishes a state unemployment compensation fund, financed by a tax levied against most Ohio employers in rough proportion to the amount of wages paid for insured employment. The fund supports the payment of weekly cash benefits to temporarily unemployed workers who have recent earnings from insured employment and meet other eligibility criteria. With some exceptions, employers are required to pay unemployment taxes if they (1) employed at least one person for some part of a day in each of 20 or more different calendar weeks in the current or preceding calendar year, or (2) paid at least \$1,500 in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or crew leader who (1) during any calendar quarter of the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay contributions to the state unemployment compensation fund. The amount of an employer's contributions is determined by the total wages paid to all workers employed during the year (up to a taxable wage limit of \$9,000 per worker), multiplied by the employer's unemployment insurance tax rate, prescribed by the state administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In general, no one is entitled to UI benefits unless he or she (1) has filed an application for determination of benefit rights, (2) has made a claim for benefits, (3) has properly registered for work, (4) is able to work, available for suitable work, actively seeking work, and unable to obtain suitable work, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, worked at least 20 weeks for an employer subject to the unemployment compensation law and earned an average weekly wage of not less than 27.5 percent of the statewide average weekly wage over those 20 weeks.

AMOUNT OF BENEFITS — For any week of total unemployment, benefits are payable to an eligible claimant at a weekly benefit amount equal to 50 percent of the claimant's average weekly earnings from UI-insured employment over the four-quarter base period mentioned above. However, the weekly benefit amount currently may not exceed \$443 for a claimant with no dependents, \$537 for one or two dependents, or \$598 for three or more. With respect to a week of partial unemployment, the claimant is generally entitled to a UI payment equal to the weekly benefit amount, minus that part of the week's part-time earnings which exceeds 20 percent of the weekly benefit amount.

SEASONAL WORKER PROVISIONS — The eligibility of a worker to receive unemployment benefits, as well as the amount of such benefits, is subject to special rules whenever the worker reports any earnings from seasonal employment in a seasonal industry, which may include many agricultural operations. As a general rule, workers whose only qualifying wages were earned in a seasonal industry are eligible for benefits only for unemployment which occurs during the time that same industry is regularly in operation. However, a claim for benefits will generally be disallowed if there is reasonable assurance of employment in the upcoming season by one or more employers from the previous season.

On the other hand, where the claimant has earnings from both seasonal and non-seasonal employment, the maximum compensation cumulatively payable, and thus the length of time over which the worker can draw weekly benefits, is significantly curtailed as the proportion of seasonal wages increases. It is important to note, however, that a worker's earnings may not be treated as seasonal unless the individual employer involved has applied for and received formal designation by the state agency as a seasonal employer.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Unemployment Insurance Operations, Ohio Department of Job and Family Services, Columbus, Ohio 43215 (614-466-2319; toll-free 877-644-6562). This agency is responsible for administration of all aspects of the state unemployment insurance system, including tax liability and benefit eligibility determinations, as well as related appeals by employers and workers. UI claims may be filed toll-free by phone, at 877-644-6562, or online at http://unemployment.ohio.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4123.01 - 4123.932

GENERAL SUMMARY: With very few exceptions, the workers' compensation law guarantees that every employee in Ohio who is injured or who contracts an occupational disease in the course of employment, and the dependents of any employee who dies as a result of a work-related accident or occupational disease, are entitled to cash compensation, medical treatment, medicines, and related benefits. The financial responsibility for providing such benefits is on the employer, who may either pay annual premiums to the state workers' compensation fund, or present evidence of ability to pay required compensation directly. Self-insured employers must obtain a surety bond to cover any default in the payment of required benefits.

An otherwise eligible worker who suffers a compensable injury or contracts an occupational disease while working for an employer who has failed to comply with the obligation to secure compensation may file a claim and receive benefits from the state fund; every such claim becomes a lien against the employer's property, payable to the state. Furthermore, non-complying employers are liable to their employees for damages suffered in a work-connected injury, and to the employees' dependents where death results from the injury; in any suit to recover damages the employer is barred from claiming as a defense that the injury was due to the negligence of the worker or that of a co-worker, or that the worker had assumed the risks inherent to the employment. Failure to comply is also punishable as a criminal offense.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employers in virtually all other industries, farm operators and other agricultural establishments with one or more workers in their service are required to provide coverage under the workers' compensation law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292). The Bureau is responsible for (1) determining the liability of employers for workers' compensation coverage and enforcing the payment of premiums or equivalent compliance by subject employers, and (2) processing workers' compensation claims filed by workers and surviving dependents and paying benefits for valid claims. A worker who is injured on the job or disabled by an occupational disease, or the dependents of a worker whose death is related to such an injury or disease, may file a claim in person, by phone, or online at https://www.bwc.ohio.gov/bwccommon/forms/froi/default.asp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE LAW

STATUTORY CITATION: Ohio Rev. Code §§ 921.01 – 921.99

RELATED REGULATIONS: Ohio Admin. Code 901:5-11

GENERAL SUMMARY: Chapter 921 of the state statutes regulates the sale, storage, use and disposal of pesticides in Ohio and contains, among other provisions, licensing requirements and operational standards relevant to pesticide applicators in the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING —

Pesticide Businesses — No one may own or operate a business whose purpose it is to apply pesticides to someone else's property for hire without first obtaining a pesticide business license from the state. Among other prerequisites for obtaining a business license, the applicant must submit proof of liability insurance in the minimum amount of \$300,000 covering potential damage caused by the application of pesticides.

Commercial Applicators — No one (other than a private applicator, discussed next) may apply a restricted-use pesticide without having a commercial applicator license issued by the state. As conditions for receiving such a license, the applicant must pass both a general core examination and an examination for the specific category of pesticide use for which the applicant is applying, and be found competent to apply pesticides and conduct diagnostic inspections.

Private Applicators — A private applicator's license is required for any non-commercial applicator who intends to apply a restricted-use pesticide to agricultural crops on the applicator's own land, or on someone else's property when no fee is charged for such services. Applicants for a private applicator license must demonstrate adequate knowledge and competence to apply the types of pesticides they will be applying.

OPERATIONAL STANDARDS —

Recordkeeping — Every licensed commercial applicator must make a record of all pesticide applications performed, including such information as the name and address of the person contracting for the service, the date and time of the application, the size and location or field number of the treatment area, the identity of the pesticide product used, the type of equipment used, and the wind velocity and air temperature when the application occurred. Records must be retained for a period of 3 years from the date of the pesticide application to which they refer.

Private applicator records must include, for each restricted-use pesticide applied, the applicator's name and license number, the product name and EPA registration number, the total amount of product applied, the location or field number of the area treated, the total area or acreage treated, the crop to which the pesticide was applied, and the date of application.

Storage and Disposal — Pesticides and pesticide containers must not be stored or disposed of in such a manner as to adversely affect the environment, contaminate animal feed or commercial fertilizers, or result in injury to crops, livestock or the general public. Pesticide handlers and applicators must observe detailed procedural rules spelled out in the state regulations.

Unlawful Acts — Among many other offenses defined in the pesticide law and associated regulations, it is illegal for anyone (1) to use or apply a pesticide contrary to the product's labeling or state regulations, (2) to use or supervise the use of a restricted-use pesticide without being licensed or certified to do so, or unless directly supervised by a certified applicator, (3) to fail or refuse to keep required records or make required reports, or (4) to operate in a faulty, careless or negligent manner, or operate faulty or unsafe equipment.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270). The Department has exclusive control over the licensing of pesticide applicators in the state, and is responsible for enforcing compliance with the statutory and regulatory provisions governing their operations. Representatives of the Department are granted free access to all books, records, pesticides and pesticide equipment subject to regulation, on any public or private property during regular business hours. The Department may observe pesticide applications and take samples of plant and animal life, soil, water or other matter to determine any adverse effects of a pesticide application, drift or spillage. Among other remedies, the Department may seize illegal products, issue orders requiring repair of unsafe application equipment, suspend or revoke the license or certification of pesticide applicators found in violation of the law or regulations, and apply to the state courts to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDE LAW (AGRICULTURAL WORKER SAFETY)

STATUTORY CITATION: Ohio Rev. Code § 921.16(C)(5)

RELATED REGULATIONS: Ohio Admin. Code 901:5-11-19

GENERAL SUMMARY: Apart from provisions relevant to the licensing and conduct of applicators, the pesticide law confers broad authority on the state director of agriculture to adopt rules requiring, among other things, (1) the protection of field workers storing, handling or applying pesticides, and (2) the protection of occupants of agricultural labor camps who are living or working in the vicinity of pesticide-treated areas.

SPECIFIC TERMS AND CONDITIONS: Using the pesticide law's rulemaking authority, the state agriculture director has adopted the worker protection standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards) as the safety standard for pesticide workers in Ohio. It applies to all agricultural workers and handlers working with, in or around pesticides.

No pesticide safety rules have been adopted explicitly addressing the protection of occupants of agricultural labor camps.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FERTILIZER LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ohio Rev. Code §§ 905.40 - 940.411

RELATED REGULATIONS: Ohio Admin. Code 901:5-3-01 - 901:5-3-14

GENERAL SUMMARY: Chapter 905 of the Ohio state statutes regulates, in part, the manufacture, distribution and application of fertilizers in the state. It includes provisions (1) requiring prior state approval for construction of anhydrous ammonia storage facilities, (2) authorizing the state agriculture director to adopt and enforce rules governing the storage and handling of anhydrous ammonia used for agricultural purposes, and (3) prohibiting the use of equipment or systems found out of compliance with those rules.

SPECIFIC TERMS AND CONDITIONS: Using the rulemaking authority cited above, the agriculture director has adopted anhydrous ammonia safety standards immediately relevant to workers on farms and in the field.

ON-FARM DELIVERY SYSTEMS — Containers of 3,000 gallons capacity or less that are mounted on farm wagons used to transport ammonia are subject to detailed qualitative and quantitative standards governing construction, mountings, valves and accessories, and safety markings identifying the substance inside. The wagons must be securely attached to the vehicle pulling them.

All farm wagons are required to carry at least 5 gallons of readily accessible clean water, for emergency treatment in the event of injuries to workers handling or applying the product.

ON-FARM APPLICATION SYSTEMS — Containers mounted on farm implements used for the field application of ammonia must meet prescribed standards of construction, must be mounted securely, and must be marked clearly to identify the substance inside. Each such container must be equipped with a liquid-level gauge, a shutoff valve, and related devices.

Each unit transporting ammonia must (1) carry at least 5 gallons of water, for emergency treatment in the event of injuries to workers handling or applying the product, and (2) be equipped with rubber gloves and either a full face mask, a pair of tight-fitting goggles or a full face shield.

SAFETY TRAINING — Workers required to handle ammonia must be trained in safe operating practices and proper action to take in the event of emergencies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

→ MINIMUM FAIR WAGE STANDARDS LAW

STATUTORY CITATION: Ohio Const. Art. II, § 34a; Ohio Rev. Code §§ 4111.01 - 4111.99

GENERAL SUMMARY: Under a state constitutional initiative approved by Ohio voters in 2006, workers who (1) are employed by a business with gross annual receipts exceeding \$297,000, and (2) are not excluded by law from receiving the federal minimum wage, are generally entitled to receive the state minimum wage, which is currently \$8.15 an hour.

Unless excluded by law from the federal minimum, workers employed by a business with gross sales of \$297,000 or less must receive no less than the federal minimum wage, which is currently \$7.25 an hour.

On September 30 each year, both the state minimum wage rate and the gross-receipts threshold are adjusted to reflect the inflation rate for the preceding 12-month period. The revised amounts go into effect on January 1 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE —

Coverage — In general, a farm operator or other agricultural establishment that (1) has gross annual sales of more than \$297,000 and (2) used more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination), is obligated to pay each agricultural employee no less than \$8.15 an hour. Farmworkers employed by an agricultural establishment which meets the 500 worker-day test, but the sales of which amount to \$297,000 or less, are entitled to at least \$7.25 per hour for every hour of work.

Exceptions — The minimum wage requirements do not apply to:

- (1) Workers employed by a farm operation whose volume of sales and agricultural employment is below the respective coverage thresholds cited above.
- (2) Hand-harvest laborers who (a) are paid on a piece-rate basis, in an operation generally recognized as a piecework job in the local region, (b) commute daily from their permanent residence to the farm workplace, and (c) were employed in agriculture less than 13 weeks during the preceding year.
- (3) Hand-harvest laborers 16 years of age or younger who (a) are paid on a piece-rate basis in a recognized piecework operation, (b) are employed on the same farm as their parent or guardian, and (c) are paid the same piecework wage as workers over the age of 16 employed on the same farm.

RECORDKEEPING — Every agricultural employer subject to the state minimum wage must make a record of the name, address and occupation of each employee, the worker's pay rate, and the worker's total pay. Payroll records must be preserved for at least 3 years.

POSTING — Subject employers are required to keep a summary of the minimum fair wage standards law and the associated regulations posted in a conspicuous and accessible place at or near each location where there are covered employees at work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). The Department has authority to receive and investigate minimum wage complaints filed by employees, and for that purpose may examine and copy payroll and related records at any place of employment. At the written request of a worker paid less than the required minimum wage, the Department may take assignment of a wage claim and bring necessary legal action to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker who does not receive the pay to which he or she is entitled under these provisions may elect to file suit against the employer directly, through private legal counsel or a public legal service provider. Court action must be commenced within 3 years of the date of the violation, or within one year of the final disposition by the state of a complaint for the same violation, whichever is later. An employer who pays a covered worker less than the applicable minimum wage is liable to the worker for the full amount of wages, less any amount actually paid, and up to *double* the amount of unpaid wages in damages. The employer is also liable for court costs and attorney's fees deemed appropriate by the court.

○ MINIMUM FAIR WAGE STANDARDS LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Ohio Rev. Code § 4111.03

GENERAL SUMMARY: Besides establishing a statewide hourly pay floor, the minimum fair wage standards law requires most employers with gross annual sales of at least \$150,000 to pay their employees overtime compensation at a rate of $1^{1}/2$ times the regular wage for hours worked in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision does not apply to workers employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MISCELLANEOUS LABOR LAWS (SEMI-MONTHLY PAYMENT OF WAGES)

STATUTORY CITATION: Ohio Rev. Code § 4113.15

GENERAL SUMMARY: Every individual, firm or other entity doing business in Ohio must, on or before the first day of each calendar month, pay the wages earned by its employees during the first half of the preceding month, and on or before the 15th day of each month must pay all wages earned during the last half of the preceding month. This provision does not preclude the daily or weekly payment of wages, or the use of a different pay interval authorized by written contract or under law.

PROVISIONS APPLICABLE TO AGRICULTURE: The semi-monthly wage payment provision applies equally to all agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). A worker who has not received wages within the timeframe described above may file a claim with the Department, which is authorized to investigate and assist in collection of a valid claim on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may enforce the right to payment of wages in conformity with this provision by initiating a civil suit against the employer directly. Where wages remain unpaid for 30 days beyond the regularly scheduled payday, or for 60 days beyond the date of filing of a wage claim, the employer is liable for liquidated damages, in addition to the unpaid wages, in an amount equal to 6 percent of the sum still unpaid, or \$200, whichever is greater.

INCOME TAX LAW

STATUTORY CITATION: Ohio Rev. Code §§ 5747.01 – 5747.99

GENERAL SUMMARY: Chapter 5747 of the state statutes imposes an annual income tax on every individual residing or receiving income in Ohio. Most employers transacting business in the state and making payment of any compensation to a worker must deduct and withhold from the worker's pay each payroll period an amount of tax estimated to equal the worker's year-end income tax liability on the wages involved. The employer is required to forward withheld taxes to the state at designated intervals, for proper credit against the worker's liability. By January 31 of the following year, the employer must furnish both the state agency and the worker an annual report showing the compensation paid to and the income tax withheld from the worker during the entire preceding year.

PROVISIONS APPLICABLE TO AGRICULTURE: The withholding provision of the state income tax law **exempts** compensation paid for agricultural labor.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file quarterly reports of estimated taxes and an annual state income tax return, and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

 $\label{eq:problem} PRIMARY\ ENFORCEMENT\ AGENCY\ --\ Compliance\ Division,\ Ohio\ Department\ of\ Taxation,\ Columbus,\ Ohio\ 43229\ (toll-free\ 888-405-4091).$

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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Oklahoma

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Okla. Stat. Title 40, §§ 71 – 88

GENERAL SUMMARY: Oklahoma's child labor provisions regulate the employment of minors under the age of 16, by restricting the occupations open to such workers, limiting their working hours, imposing certain educational qualifications as a condition on employment, and requiring the use of age and schooling certificates under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than a prohibition against employment in occupations declared hazardous by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards), Oklahoma's child labor laws **do not apply** to minors performing work in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Child Labor Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OKLAHOMA SCHOOL CODE (COMPULSORY ATTENDANCE)

STATUTORY CITATION: Okla. Stat. Title 70, § 10-105

GENERAL SUMMARY: With few exceptions, it is unlawful for a parent, guardian or other person having control of a child who is over the age of 5 and under the age of 18, and who has not finished four years of high-school work, to neglect or refuse to compel the child to attend a public, private or other school, unless other means of education are provided for the full term the schools of the district are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provision applies to children in the affected age group without regard to the employment status or occupational classification of their parents or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by local school attendance officers. Persons found in violation are subject to a criminal fine ranging from \$25 to \$250, imprisonment for from 5 to 15 days, or both a fine and imprisonment. Each day a child remains out of school after written or documented oral warning has been given to the parent or guardian constitutes a separate offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ ADMINISTRATIVE WORKERS' COMPENSATION ACT (INJURY TO MINORS)

STATUTORY CITATION: Okla. Stat. Title 85A, § 48

GENERAL SUMMARY: In the case of the job-related injury or death of a minor employed in violation of or contrary to the state child labor laws, the worker or the worker's beneficiaries are entitled to twice the amount of disability or death benefits otherwise payable if the worker had been legally employed.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act — and hence the enhanced benefits for workers employed in violation of the child labor laws — **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

OKLAHOMA ANTI-DISCRIMINATION ACT

STATUTORY CITATION: Okla. Stat. Title 25, §§ 1101 – 1706

GENERAL SUMMARY: Along with protections related to housing and public accommodations, the Oklahoma Anti-Discrimination Act defines certain illegal employment practices and prescribes procedures for reporting and resolving charges of employment discrimination. With few exceptions, the Act applies to agricultural and non-agricultural employers who have one or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — It is an unlawful employment practice for an employer to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to the terms, conditions, privileges or responsibilities of employment, because of race, color, religion, sex, national origin, age (40 and over), genetic information or disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the employer's business. The limitation, segregation or classification of an employee or applicant in any way which would deprive the individual of employment opportunities or otherwise adversely affect employment status on any such grounds is also illegal. Employment agencies and labor organizations are subject to comparable restrictions against discrimination.

No employer, employment agency or labor organization may circulate any employment notice or advertisement which indicates a preference or bias based on race, color, religion, sex, national origin, age, genetic information or disability, although religion, sex and national origin may under certain circumstances constitute bona fide occupational qualifications not necessarily indicative of unlawful discrimination.

COMPLAINTS — A person who has a grievance related to discrimination in employment may file a complaint with the state enforcement agency at any time up to 180 days after the alleged discriminatory act or practice occurred. If investigation of the complaint yields reasonable cause to believe the charges are valid and the state agency staff is unable to reach a mutually agreeable settlement between the complainant and the respondent, a hearing will be called to allow the respondent to answer the charges formally. If the agency finds from its review of all the evidence that the respondent has engaged in a discriminatory practice, an attempt must be made to reach a written conciliation agreement with the respondent, but if such measures fail, the agency will issue a formal order requiring compliance with the law and appropriate affirmative action to compensate for the violation. Affirmative action may include, among other remedies, hiring or reinstatement of the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Civil Rights Enforcement, Oklahoma Office of the Attorney General, Oklahoma City, Oklahoma 73105 (405-521-3921). In connection with investigation of a complaint, representatives of this agency have the right to enter public and private property, inspect records and documents relevant to the complaint, and examine and copy other evidence. The agency may also subpoena witnesses and take sworn testimony in fact-finding and adjudicatory proceedings, as outlined above. Final orders of the agency are enforceable in state district court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The Attorney General may refer a complaint alleging employment discrimination to any local human relations commission created for such purposes by one or more political subdivisions in the state. Local commissions are authorized to investigate, determine reasonable cause, attempt to informally eliminate discriminatory practices, and recommend compliance action to the Attorney General.

PRIVATE CIVIL ACTION — An employee aggrieved by an alleged violation of the Anti-Discrimination Act may take private legal action against the employer involved, but only after first filing a charge of employment discrimination with the administrative enforcement agency. If the matter is not resolved to the employee's satisfaction within 180 days after the charge is filed, the agency may issue a notice of a right to sue, allowing the employee to proceed with court action, using a private attorney or public legal service provider. Court action must commence no later than 90 days after the worker receives the right-to-sue notice.

EQUAL PAY LAW

STATUTORY CITATION: Okla. Stat. Title 40, §§ 198.1 - 198.2

GENERAL SUMMARY: It is unlawful for any employer in Oklahoma to willfully pay wages to a female employee at a rate less than the rate paid to a male employee for comparable work for the same employer, on jobs which have comparable requirements relating to skill, effort and responsibility. This prohibition does not, however, preclude wage distinctions under a compensation system based on seniority, merit, quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to agricultural and non-agricultural employment alike.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department is obligated to investigate reported or suspected violations of the equal pay provision, and is authorized to take legal action against any employer found to have paid discriminatory wages because of an employee's sex. Violators are subject to a fine of from \$25 to \$100 for each offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

STATUTORY CITATION: Okla. Stat. Title 40, §§ 1-101 – 9-104

GENERAL SUMMARY: The Employment Security Act authorizes the payment of unemployment insurance benefits to jobless workers who have sufficient wage credits from recent insured employment and meet other eligibility requirements. Benefits are financed by taxes paid by Oklahoma employers based on their taxable payroll. In general, employers are required to pay UI taxes if they (1) employed one or more individuals for some part of a day in each of 20 or more different calendar weeks in the current or preceding calendar year, or (2) paid \$1,500 or more in wages in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, must pay contributions to the state unemployment compensation fund. The amount of an employer's contributions is determined by applying the employer's annually assigned UI tax rate to the taxable wages paid to each employee during the calendar year, up to a per-worker taxable wage limit equal to from 40 to 50 percent of the statewide average annual wage for the second preceding calendar year.

ELIGIBILITY FOR BENEFITS — In brief, an unemployed worker not otherwise disqualified is eligible to receive unemployment compensation only if the state administering agency finds that the individual (1) has filed a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$1,500 and had total earnings over the four-quarter base period equal to at least 1:/2 times the wages earned in the one quarter in which wages were highest.

AMOUNT OF BENEFITS — The weekly benefit amount for an eligible claimant is normally equal to 1/23 of the wages earned by the claimant in the one quarter of the base period when wages were highest. Currently, a claimant's weekly benefit amount may not be less than \$16 and may not exceed \$510. In any week in which the claimant has part-time job earnings, the worker is entitled to a payment equal to the weekly benefit amount, minus that part of the week's earnings in excess of \$100.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oklahoma Employment Security Commission, Oklahoma City, Oklahoma 73152 (405-557-7100). The Commission is solely responsible for administration of the Employment Security Act, and in that role must determine the liability of the state's employers for the payment of unemployment insurance contributions, collect contributions from liable employers, determine the eligibility of workers for UI benefits, issue benefit payments, and adjudicate tax and benefit appeals. Unemployment compensation claims may be filed by phone, at 800-555-1554, or online at www.unemployment.state.ok.us/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ ADMINISTRATIVE WORKERS' COMPENSATION ACT

STATUTORY CITATION: Okla. Stat. Title 85A, §§ 1 - 125

GENERAL SUMMARY: The Administrative Workers' Compensation Act requires most Oklahoma employers to provide compensation for the disability or death of their employees which results from an accidental on-the-job personal injury or an occupational disease, generally without regard to fault. Compensation includes, among other potential benefits, (1) medical and surgical treatment, medicines and related services, and (2) cash payments to the worker or the worker's dependents to compensate for lost wages.

To meet the liability for such benefits, every employer subject to the Act generally must either purchase a workers' compensation insurance policy from a commercial carrier, or furnish proof to the state administering agency of financial ability to provide compensation as a self-insurer. Employers who fail to secure compensation are liable for a civil penalty of up to \$10,000. In the event a non-complying employer is sued for damages by a worker or the surviving dependents of a worker injured or killed in the course of employment, the employer loses the right to use as a defense in court that the injury was caused by the negligence of the worker or a co-worker, or that the worker had assumed the risk of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

STATUTORY CITATION: Okla. Stat. Title 85A, §§ 200 - 213

GENERAL SUMMARY: Under certain conditions, the Employee Injury Benefit Act allows any employer subject to the Administrative Workers' Compensation Act (see preceding entry) to opt out of it and establish a written benefit plan that provides essentially the same benefits for the work-related injury or death of their employees as required by the Workers' Compensation Act. Employers who opt out in favor of this law must obtain and keep in force a prescribed insurance policy or surety bond evidencing the employer's ability to pay required medical costs, death benefits and loss of wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Employee Injury Benefit Act applies to employees to the same extent as the term is defined in the Administrative Workers' Compensation Act, described in the previous entry. Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act — and thus the Employee Injury Benefit Act — does not apply to agricultural workers.

SPECIAL NOTES OR ADVISORIES

CONSTITUTIONALITY — In an opinion issued on September 13, 2016 (Vásquez v. Dillard's, 2016 OK 89), the Oklahoma Supreme Court ruled the Oklahoma Employee Injury Benefit Act creates an "impermissible select group of employees seeking compensation for work-related injuries for disparate treatment," and is therefore "an unconstitutional special law."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

O PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Okla. Stat. Title 40, §§ 52 - 57

RELATED REGULATIONS: Okla. Admin. Code §§ 380:10-1-1 - 380:10-1-10

GENERAL SUMMARY: Any person, firm or corporation that, for a fee, procures employment for workers seeking a job, or provides information as to where jobs may be obtained, must first obtain a license from the state to do so. Among other conditions for receipt of a license, the agency or agent must obtain a bond — in the amount of \$5,000 in the first year, \$3,000 in the second year, and \$1,000 each year thereafter. The private employment agency law limits the fees such businesses may charge for their services, and requires employment agents to keep detailed records of their job placement activities and to observe prescribed rules of fair practice.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided the person employing the workers pays their wages, pays Social Security and unemployment insurance taxes, carries required workers' compensation insurance, and is responsible for the workers' performance on the job, the private employment agency law **does not apply** to anyone (implicitly including a farm labor contractor or crew leader) who employs workers to perform temporary or part-time services for or under the direction of a third person (such as a farm operator).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Safety Standards and Licensing Division, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MISCELLANEOUS LABOR LAWS (MISREPRESENTATION IN RECRUITMENT)

STATUTORY CITATION: Okla. Stat. Title 40, §§ 167 – 170

GENERAL SUMMARY: It is illegal for an employer doing business in Oklahoma to bring workers of any sort into Oklahoma for employment, or to induce or persuade workers to move from one place to another within the state, through false pretenses, false advertising, or deception regarding the character of the work to be performed, the amount of compensation to be paid, the sanitary conditions on the job, the existence or non-existence of a strike or other labor dispute pending at the job site, or other conditions of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies without regard to the nature of the offered employment or the occupation of the workers involved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department has authority to refer complaints charging violation of this provision to local district attorneys for criminal prosecution. Employers found guilty are subject to a fine ranging from \$500 to \$2,000, confinement for one month to one year in jail, or both a fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who is influenced to relocate on the basis of a misrepresentation concerning employment has a right to sue the responsible parties for recovery of any damages sustained as a consequence. In addition to actual damages, the worker is entitled to reasonable attorney's fees if the court rules in the worker's favor.

LABOR RELATIONS AND COLLECTIVE BARGAINING

MISCELLANEOUS LABOR LAWS (RECRUITMENT AND EMPLOYMENT OF STRIKEBREAKERS)

STATUTORY CITATION: Okla. Stat. Title 40, §§ 199.1 - 199.4

GENERAL SUMMARY: In general, it is a misdemeanor for any person, firm, agency or other entity to knowingly recruit, supply or refer any worker to a job vacated by an employee on strike or locked out, when such worker has customarily and repeatedly offered to take the place of employees involved in strikes or lockouts. It is similarly unlawful for such a worker to take or offer to take the place of employees involved in a strike or lockout. Likewise, no one may recruit, solicit or advertise for workers, or refer workers to employment, in place of striking or locked-out employees without giving adequate notice of the existence of a strike or lockout at the workplace, and advising that the job offer is for the purpose of replacing striking or locked-out employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The anti-strikebreaking provisions apply to agricultural employment to the same extent as employment in non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department is authorized to investigate and refer complaints charging violation of the strikebreaking provisions to local district attorneys for criminal prosecution. A violation is punishable by a fine of from \$500 to \$2,500, a jail term of from 60 days to one year, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

OKLAHOMA COMBINED PESTICIDE LAW

STATUTORY CITATION: Okla. Stat. Title 2, §§ 3-81 - 3-86

RELATED REGULATIONS: Okla. Admin. Code §§ 35:30-17-1 - 35:30-17-107

GENERAL SUMMARY: Among other matters, the Oklahoma Combined Pesticide Law regulates pesticide applicators in Oklahoma, in part by requiring most classes of applicators to be licensed and certified, to secure liability insurance, to keep pesticide application records, and to observe other standards of performance and conduct. The state agriculture department has authority under the law to adopt and enforce related administrative standards further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — It is unlawful for any person to act, operate or do business as a commercial, non-commercial or private pesticide applicator unless the person has obtained a valid applicator's license from the state for the category of pesticide application in which the person intends to engage. There must be a certified applicator identified on each license issued, and certification requires the applicator to prove, through a written test (and, in some cases, a practical examination) competence in the particular use of pesticides for which the license is issued.

LIABILITY INSURANCE — No commercial applicator's license may be granted until the applicant furnishes evidence of insurance covering liability for damages arising from the applicator's operations and involving property other than the crops, plants or land targeted for treatment at the time the loss occurred.

RECORDKEEPING — Commercial and non-commercial applicators are required to keep accurate records of their pesticide activities, including such data as the time and place of each application, the name and address of the applicator and the person for whom the work is being performed, the legal description of the targeted property, the date of application, the quantity of the pesticide used, the trade name of the product, and the targeted pest.

PROHIBITED ACTS — Among other grounds for denial, suspension, revocation or non-renewal of licensing, a pesticide applicator is forbidden from (1) using a pesticide in a manner inconsistent with the product's labeling, (2) failing or refusing to keep required records, and (3) applying a pesticide without possessing the proper category of license permitting such use.

COMPLAINTS — The state agriculture department is required to receive and attempt to resolve written complaints involving the use or alleged misuse of pesticides.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Consumer Protection Services Division, Oklahoma Department of Agriculture, Food, and Forestry, Oklahoma City, Oklahoma 73152 (405-522-6347). In addition to its licensing function, the Department is responsible for inspecting the job performance of licensed applicators to determine their compliance with the statutory and regulatory provisions applicable to pesticide use, and for investigating related damage claims. The Department has authority to assess civil money penalties of up to \$1,000 for each violation of these provisions. Violators are also subject to criminal fines and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

O OKLAHOMA MINIMUM WAGE ACT

STATUTORY CITATION: Okla. Stat. Title 40, §§ 197.1 - 197.17

GENERAL SUMMARY: In order to protect working people from conditions of labor which have a pernicious effect on their health or morals, the Oklahoma Minimum Wage Act requires most employers with more than 10 full-time workers, or gross annual sales in excess of \$100,000, to pay their employees hourly wages equal to or greater than the federal minimum wage, currently \$7.25 an hour.

PROVISIONS APPLICABLE TO AGRICULTURE: The Oklahoma Minimum Wage Act does not apply to any farm employer or any worker employed on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAW

STATUTORY CITATION: Okla. Stat. Title 40, §§ 165.1 – 165.11

GENERAL SUMMARY: The state wage payment law generally establishes semi-monthly pay periods, dictates the use of itemized deduction statements, and prescribes the timeframe for receipt of final wages at termination. Virtually without exception, these provisions apply to all agricultural and non-agricultural employers in Oklahoma, and to all non-managerial employees.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — Employers must pay their workers' wages at least twice each calendar month, on regular paydays designated in advance by the employer. An interval of not more than 11 days may elapse between the end of the pay period and the ensuing payday.

MEDIUM OF PAY — Wages may be paid only (1) in lawful U.S. money, or (2) by check, other written draft or electronic deposit redeemable in U.S. money on demand and without discount.

 $STATEMENT\ OF\ DEDUCTIONS\ --\ With\ each\ payment\ of\ wages,\ employers\ must\ provide\ each\ worker\ with\ an\ itemized\ statement\ showing\ all\ deductions\ from\ the\ worker's\ earnings.$

FINAL WAGES — Whenever a worker's employment terminates, the employer generally must pay final wages in full on the next regular payday for the pay period in which the work was performed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department may investigate any complaint of non-payment of wages or other violation of the wage payment law, and is authorized to take civil action on the claimant's behalf to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker who has not been paid in conformity with the wage payment law may recover unpaid wages, plus liquidated damages, in a private civil suit against the employer, using legal counsel of the worker's own choice. A judgment in the worker's favor may include court costs and attorney's fees.

OKLAHOMA INCOME TAX ACT

STATUTORY CITATION: Okla. Stat. Title 68, §§ 2351 – 2386

GENERAL SUMMARY: The Oklahoma Income Tax Act imposes a tax on the income of Oklahoma residents, and on the income of non-residents which is derived from sources within the state. In general, every employer who makes wage payments in Oklahoma must deduct and withhold from the wages of each employee an amount corresponding to the employee's state income tax liability on such earnings, as determined from state-issued tax tables. Once a week, once a month or once each quarter, the employer must forward withheld taxes to the state, and no later than January 31 of the succeeding year must furnish each employee with a written statement showing the employer's name, the name and Social Security number of the worker, the total amount of wages subject to taxation, and the total amount of state income taxes withheld from the worker's pay.

PROVISIONS APPLICABLE TO AGRICULTURE: With respect to any worker paid more than \$900 a month for agricultural labor, the employer or other person having control over the payment of such wages must withhold state income tax from the worker's wages. In turn, farm employers who withhold any state income tax are liable for the payment and reporting of withheld taxes, and for providing an annual wage and tax statement to each worker from whom taxes have been withheld.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite the exemption of some farmworkers from state withholding requirements, such workers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma (405-521-3251). The Commission is responsible for the collection of income tax withholding from employers, and for crediting withheld taxes against the tax liability of the affected employees. Any worker who has reason to believe that income tax has been incorrectly withheld, or has not been properly paid or reported to the state, should contact a representative of the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

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Oregon

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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Or. Rev. Stat. §§ 653.305 - 653.545

RELATED REGULATIONS: Or. Admin. R. 839-021-006 - 839-021-0500

GENERAL SUMMARY: The Oregon child labor laws (1) generally prohibit the employment of children under the age of 14 when school is in session and under the age of 12 during vacation periods, (2) limit the working hours of minors under 16 years of age, (3) prohibit employment of minors in certain hazardous occupations, (4) require issuance of an employment certificate as a prerequisite to hiring minors under 18 in certain establishments, and (5) entitle young workers to meal and rest periods.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE RESTRICTIONS —

Children Age 9 to 11 — In general, a child who is under 12 years of age but no younger than 9 may be employed in agriculture only to pick berries or beans, only outside school hours, and only if (1) the child is employed with the consent of his or her parent or guardian, (2) the child is paid at the same rate as workers age 12 and over performing the same work for the same employer, (3) the crop involved is sold only within Oregon and not transported out of the state in any form, and (4) the state enforcement agency has certified that there are not sufficient workers in the immediate area to harvest the crop without using 9- to 11-year-old pickers.

Children Age 12 and 13 — Most forms of agricultural employment are open to minors 12 and 13 years of age, but only outside the term during which the public schools where the child resides are in session.

Children Age 14 and Over — Subject to the maximum hours and hazardous work limitations cited below, and as long as work occurs only outside local school hours, children 14 years of age and older may work in agriculture with no other state restrictions.

MAXIMUM HOURS —

During the School Year — No child under the age of 16 may be employed in agriculture for longer than 3 hours a day on school days, 10 hours a day on non-school days, or 25 hours a week during school weeks.

Outside the School Year — From the last day of the most recently completed local school year until the first day of the next local school year, no one under the age of 16 may work more than 10 hours a day, or more than 60 hours or 6 days in any week.

Exceptions for Work with Power-Driven Machinery — When a worker under age 16 is employed to operate or assist in operation of power-driven farm machinery, or to ride in or on such machinery, maximum hours during the school year are 3 hours a day on school days, 8 hours a day on non-school days, and 18 hours a week during school weeks; between school years (during "summer vacation" periods), employment time generally may not exceed 10 hours a day and 60 hours a week during the harvest season, and 10 hours a day and 44 hours a week outside the harvest season. Minors 16 and 17 years old working in or on power-driven farm machinery are generally limited to working 25 hours a week during school weeks, and 60 hours a week between school years ("summer vacation" periods).

TIME-OF-DAY LIMITATION — The provision restricting most minors under age 16 from working outside the hours of 7:00 a.m. to 7:00 p.m. (to 9:00 p.m. from June 1 to Labor Day) **does not apply** to agricultural employment.

HAZARDOUS OCCUPATIONS — In general, no minor may operate or assist in the operation of power-driven farm machinery, or ride in or on any such machinery, unless (1) the employer obtains an employment certificate from the state labor department, and (2) the minor has obtained a certificate of training on tractor or related machinery operation issued by an approved training provider.

EMPLOYMENT PERMITS — Employment of a minor under the age of 14 requires an employment permit, issued by the state labor department. Likewise, farm operators who wish to employ minors as young as 14 to operate or to ride in or on power-driven farm machinery, or to ride in or on trailers or similar equipment connected to power-driven farm machinery, are required to obtain a special certificate from the department as well; a certificate authorizing such work may be issued only with proof that the minor has completed some form of pre-employment training approved by the department.

MEAL PERIODS — Without exception, every employee under 18 years of age is entitled to a meal period of no less than 30 minutes. The meal period is not included as part of the day's work time.

REST PERIODS — Each minor must have a paid 15-minute break every 4 hours (or major portion thereof), to be given as close to the middle of the 4-hour period as possible.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). Representatives of the Bureau have authority to visit workplaces where minors may be employed, for the purpose of investigating compliance with the child labor laws. They may inspect evidence of age, payroll records and other documentation relevant to determining violations. The Bureau is authorized to impose a civil money penalty of up to \$1,000 on any employer not subject to the federal child labor laws for each violation of the state provisions. Non-compliance is also punishable as a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 339.010 - 339.095

GENERAL SUMMARY: In general, every child between the ages of 6 and 18 who has not completed the 12th grade must regularly attend a public full-time school in the district in which the child resides, or receive equivalent private or parochial school instruction. Every person having control of a child between 6 and 18 years of age who has not completed the 12th grade is responsible for the child's regular school attendance or instruction.

Under certain conditions, a child 16 or 17 years old who is lawfully employed full-time, or who is employed part-time and in an approved education program part-time, may be exempted from these requirements.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law applies to children in the affected age bracket and to their custodians without respect to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by attendance supervisors employed by the local school districts. When notified of a child's truancy or unexcused absence, the attendance supervisor must investigate and give formal written notice of the attendance requirements to the parent or other person responsible for the child. Continued failure to assure attendance may result in citation of the parent or custodian. Non-compliance is punishable as a Class C misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

CIVIL RIGHTS LAWS

STATUTORY CITATION: Or. Rev. Stat. §§ 659A.001 - 659A.990

GENERAL SUMMARY: Chapter 659A of the Oregon statutes outlaws certain forms of discrimination, including a multitude of unlawful employment practices. In general, the ban against employment discrimination applies to all agricultural and non-agricultural pursuits in the state except domestic service and employment by a parent, spouse or child.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — Among numerous other offenses defined in the civil rights laws, it is generally illegal for an employer to refuse to hire a job applicant, or to discharge a worker from employment, because of the individual's race, color, religion, sex, sexual orientation, national origin, marital status, age (if 18 or older), or legally expunged juvenile record. Employers are also prohibited from discriminating against an individual because of the race, color, religion, sex, sexual orientation, national origin, marital status, or age of any other person the individual associates with.

Likewise, an employer may not discriminate against an individual in compensation, or in the terms, conditions or privileges of employment, on any of these same grounds, or print or circulate any employment-related statement or advertisement, or use any form of job application, which expresses a preference or bias related to any such factor.

Other prohibited acts include discrimination against a person because of the person's on-the-job injury or use of workers' compensation rights, the person's military service status, or a disability which does not prevent performance of the work involved.

EXCEPTIONS — Discrimination is not an unlawful employment practice if such discrimination is based on a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business. Also, the prohibition on discrimination against injured workers and workers with a disability applies only to employers with 6 or more employees.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the state enforcement agency, generally within one year after the alleged practice occurred. The state agency must attempt to settle the complaint and eliminate the effects of the unlawful practice through conference, conciliation and persuasion whenever the initial investigation yields substantial evidence supporting the allegations of the complaint. In the event such informal efforts are unsuccessful, the agency may hold a hearing to allow the employer or other party named in the complaint to answer the charges. A formal ruling on the evidence presented in the hearing that the respondent has, in fact, engaged in unlawful discrimination may result in an order for affirmative action compliance, which may include employment or rehiring, back pay, compensatory damages, or other appropriate measures.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). In their investigatory and adjudicatory roles under the state civil rights laws, authorized representatives of the Bureau may enter places of employment, view personnel files, question employees, subpoena witnesses or documents, take statements, report findings, issue administrative determinations, and issue compliance orders, enforceable in civil court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — If, within one year after the filing of a complaint, the Bureau has been unable to reach a conciliation agreement with the respondent, has not brought formal charges against the respondent, or has made no administrative determination in the case, the complainant may file a civil suit in circuit court for relief within 90 days, using a private attorney or public legal service provider. Likewise, a worker may take civil action directly, without first filing a complaint with the Bureau, provided the suit is commenced within one year of the occurrence of the alleged discriminatory practice. In either case, court action on the complainant's part bars any further involvement in the matter by the Bureau.

EQUAL PAY LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 652.210 - 652.230

GENERAL SUMMARY: No private employer in Oregon (among others) may pay wages to any employee at a rate less than that at which the employer pays wages to employees of the opposite sex for work of comparable character, the performance of which requires comparable skills. This prohibition does not apply where payment is made pursuant to a seniority or merit system which does not discriminate on the basis of sex, or where a wage differential is based in good faith on factors other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to agricultural employment to the same extent as in any other industry.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discriminate in the payment of wages against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). The Bureau has statutory authority to investigate and attempt to resolve any complaint filed by a worker seeking unpaid wages. At the worker's request, the Bureau may take assignment of a wage claim and initiate an administrative proceeding to collect it; unless the amount of the wage claim and penalty specified in a final order by the Bureau is paid, the order constitutes a judgment against the employer, enforceable as if issued by a court of law. In lieu of an administrative action, the Bureau also has authority to file suit in civil court to collect a claim whenever circumstances warrant.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). The Wage and Hour Division may refer cases under this law to the Bureau's Civil Rights Division, because the provisions in the civil rights laws forbidding sex discrimination in the payment of wages are broader and afford more ample rights.

PRIVATE CIVIL ACTION — As an alternative to a complaint to the Bureau, any worker who has not received full compensation as a result of discriminatory wage rates based on sex has a right to civil action against the employer, for the amount of the unpaid wages to which the worker is entitled for the one-year period preceding the suit and an additional equal amount as liquidated damages, together with court costs and attorney's fees.

CIVIL RIGHTS LAWS (WHISTLEBLOWING)

STATUTORY CITATION: Or. Rev. Stat. § 659A.199

GENERAL SUMMARY: Chapter 659A of the state statutes includes a provision declaring it an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to the terms and conditions of employment, because the employee has in good faith reported information that he or she believes is evidence of a violation of a state or federal law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: The state whistleblower provision applies to virtually all Oregon employers, both agricultural and non-agricultural alike.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to retaliate against an employee because the employee has filed an administrative complaint with the enforcement agency charging a violation of the whistleblower provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* Any person who has been subjected to discrimination or retaliation by his or her employer for having reported evidence of a violation of state or federal law may file a written complaint with this agency, which is obligated to investigate the charge and take action to resolve it. A complaint must be filed no later than one year after the alleged discriminatory or retaliatory action occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative complaint with the Bureau of Labor and Industries, an aggrieved worker may take legal action in civil court against the employer involved, using a private attorney or public legal service provider.

HEALTH AND SAFETY

OREGON SAFE EMPLOYMENT ACT

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-0001 - 437-004-9860

GENERAL SUMMARY: The Oregon Safe Employment Act requires all private employers in the state to provide their employees with a job and workplace which are safe and healthful, and to furnish and use whatever safeguards, practices and processes are reasonably necessary to protect the life, safety and health of the workforce. The Act confers broad authority on the state consumer and business services director to set standards to assure every covered employee a safe and healthful place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the consumer and business services director has adopted workplace safety and health standards explicitly applicable to agricultural operations. Key elements of the standards most relevant to on-farm work activities in the field are summarized below.

SAFETY ORIENTATION FOR WORKERS — Before any seasonal farmworkers begin work for the first time, and whenever working conditions or locations change in a way that could affect their safety and health, their employer must provide an orientation meeting with the workers to review (1) on-the-job safety and health rules, (2) procedures workers should follow to contact supervisors or managers in case of accident, illness or other safety or health problems, (3) procedures for treating injured or sick workers and for summoning emergency assistance, and (4) the location of posted safety and health information. The orientation must be provided in a way that the workers can understand, implicitly including the use of languages other than English for workers with language barriers.

AGRICULTURE EQUIPMENT GUARDING — Employers must protect workers from coming into contact with hazards created by moving machinery, by installing and using prescribed guards, shields or other protective devices. At the time of initial assignment and at least once a year thereafter, employers are required to instruct every worker in the safe operation and servicing of any equipment with which the worker will be involved.

ROLL-OVER PROTECTIONS FOR TRACTORS — Agricultural tractors of more than 20 horsepower must be equipped with prescribed structures, as well as seat belts, to protect the driver from injury in the event of roll-over. Workers who operate tractors must be instructed in certain specified safe operating practices at the time they are first assigned tractor-related duties and at least once a year thereafter.

LADDERS — Ladders used in agricultural operations must be in sound condition; ladders with cracked or broken side rails, missing steps, loose hardware or braces, or similar defects may not be used. Portable stepladders must be equipped with a metal spreader or locking device strong enough to hold the ladder open. Orchard ladders longer than 16 feet are prohibited.

MEDICAL SERVICES AND FIRST AID — Every agricultural employer must have minimum prescribed first-aid supplies in proximity to all workers. Where workers handle corrosive chemical substances, or pesticide products labeled "Danger" or "Poison," the employer must provide an emergency eyewash or shower that meets prescribed standards for decontamination. The employer must also develop an emergency medical plan, under which seriously ill or injured workers can get timely medical attention.

SPECIAL NOTES OR ADVISORIES

LIMITATION ON AGRICULTURAL INSPECTIONS — Agricultural employers with 10 or fewer permanent, year-round employees (both full-time and part-time) are subject to scheduled inspections only if (1) a valid complaint of a violation of the Safe Employment Act has been filed against the employer, or (2) there has been a death or serious disabling injury at the employer's agricultural workplace within the preceding 2 years due to a violation of the Act, or (3) the employer and principal supervisors at the workplace have not completed at least 4 hours of documented instruction on agricultural safety and health procedures each year.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Oregon OSHA is responsible for assuring employer compliance with the Act and the regulations, standards and orders issued thereunder. In response to a valid worker complaint, representatives of the agency are authorized to enter and inspect workplaces in the state, and to cite employers found in violation. Non-compliance with an applicable standard or an Oregon OSHA order may result in assessment of a civil money penalty and, for certain serious infractions, criminal prosecution. In addition, the agency may use a red warning notice to prohibit the use of any hazardous machine, device or place of employment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). In exercising its inspection authority under other statutory provisions, the Bureau must report to Oregon OSHA any violation of the occupational safety or health laws encountered at any place of employment, farm labor camp, field or facility inspected by the Bureau. This agency is also responsible for enforcing the anti-retaliation provision noted above (Civil Rights Division, 971-673-0764).

OREGON SAFE EMPLOYMENT ACT (FIELD SANITATION)

STATUTORY CITATION: Or. Rev. Stat. § 654.174

RELATED REGULATIONS: Or. Admin. R. 437-004-1110

GENERAL SUMMARY: The Oregon Safe Employment Act contains explicit provisions requiring employers of workers engaged in growing and harvesting food crops to furnish them with drinking water and sanitation facilities in the field, in accordance with administrative regulations adopted by the state consumer and business services director under the law's rulemaking authority.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — A supply of potable water that meets state quality standards must be immediately available to all workers. The water must be suitably cool and dispensed in single-use cups or angle jet fountains. Common-use drinking cups or dippers are not allowed.

TOILET AND HANDWASHING FACILITIES — Employers are required to provide at least one toilet and one handwashing facility for every 20 workers or fraction thereof. The toilet and handwashing facilities must be adjacent to each other, and generally no more than a 5-minute or 1/4-mile unobstructed walk from each worker's place of work.

Toilet units must have adequate ventilation, screens and self-closing doors lockable from the inside. There should be separate facilities for each sex, distinctly marked or labeled as such. A supply of toilet paper, soap and single-use towels sufficient to meet the workers' needs during each shift must be provided by the employer.

All such facilities must be kept in clean and sanitary condition, and must be designed and constructed so as to prevent crop contamination.

POSTING — Every employer who uses field workers in the production of food crops must post a conspicuous notice, in English and any other language spoken by a majority of the workers, summarizing the field sanitation provisions and advising where workers may file sanitation-related complaints.

REASONABLE USE — Employers must notify their field workers of the location of the facilities and allow each worker reasonable opportunities during the workday to use them. Workers must be advised of the importance of re-hydrating, urinating as frequently as necessary, and washing hands after using the toilet and before eating or smoking.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Either in response to a worker complaint or on the agency's own initiative, agents of Oregon OSHA may enter and inspect any place of employment in the state at which compliance with the Safe Employment Act, including the field sanitation standards, is required. An employer who fails to provide the required facilities may be cited and assessed a civil money penalty of up to \$7,000 for each violation, and up to \$70,000 for willful or repeated violations. A minimum mandatory penalty of \$250 is assessed if there is substantial non-compliance with the standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). If, in the course of its normal workplace inspections and investigations, the Bureau becomes aware of a violation of the field sanitation requirements, it must report the matter to Oregon OSHA for enforcement action. This agency is also responsible for enforcing the anti-retaliation provision noted above (Civil Rights Division, 971-673-0764).

HOUSING

OREGON SAFE EMPLOYMENT ACT (AGRICULTURAL LABOR HOUSING)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-1120

GENERAL SUMMARY: The Oregon Safe Employment Act confers broad authority on the state consumer and business services director to set standards to assure every covered employee a safe and healthful place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the Act's rulemaking authority, regulations have been adopted to assure the health and safety of occupants of housing which is rented, leased or provided free of charge to farmworkers by an agricultural employer, farm labor contractor, or a housing operator in connection with the workers' farm employment. The following is a summary of major provisions of the agricultural labor housing regulations.

REGISTRATION REQUIREMENTS — All labor housing facilities must be registered with the state at least 45 days before opening each year.

HOUSING SITE — The site of each labor camp must be of sufficient size to prevent overcrowding of structures, and the site must be clear of waste, brush and other potential health hazards. Any pesticides or other toxic materials must be stored in a safe place accessible only to authorized individuals. All housing sites must be provided with electrical service.

WATER SUPPLY — An ample supply of safe and potable water must be provided in every housing facility for drinking, bathing and household purposes. The water supply must meet state standards for purity and arrive at all outlets at a pressure of at least 15 psi. Portable water systems are allowable under certain conditions.

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TOILET, BATHING, AND LAUNDRY FACILITIES — In general, there must be at least one wash basin or sink for every 6 occupants, one showerhead for every 10 occupants, and one toilet for every 15 occupants; portable toilets and privies are allowable under certain conditions. Laundry and drying equipment, in minimum prescribed numbers, must also be provided. All toilet, bathing and laundry facilities must be clean and sanitary and maintained in good operating condition. An adequate supply of hot and cold water under pressure must be available for handwashing, bathing and laundry facilities.

SEWAGE DISPOSAL AND PLUMBING — Plumbing facilities must be connected to a community sewer system, a septic tank or other acceptable sewage disposal system that conforms to state environmental quality standards and the state building code.

GARBAGE AND REFUSE — At least one container of not less than 20-gallon capacity for every 15 occupants must be provided for storage of garbage and trash. Containers must be water-tight and fly-proof. Trash must be removed from the camp at least once each week, or otherwise disposed of in accordance with state environmental quality standards. Burning of trash is prohibited.

LIVING AREAS — Living areas, with minimum space of 100 square feet per occupant, must be structurally sound, weather-proof, and provided with heating equipment capable of maintaining a temperature of at least 68 degrees F., safely installed and properly vented. Portable heaters must operate by electricity only and have automatic shutoff devices.

A bed, bunk or cot must be provided for each occupant, and each bed or bunk must have a clean mattress or pad in good repair and free of insects. Sleeping areas must conform to prescribed minimum space requirements.

There must be windows or skylights to provide natural lighting, with a total area equal to at least 10 percent of the required floor area. At least half the required window area must be openable to the outside.

FIRE PROTECTION — Each living area must have a working approved smoke detector, and there must be readily accessible fire extinguishing equipment not more than 50 feet from each housing unit. Living areas must have alternate means of escape in case of fire.

COOKING AND EATING FACILITIES — Central cooking and eating facilities must meet specified state requirements for food storage, food preparation and sanitation. In units where residents prepare and serve their own meals, there must be a working refrigerator, a working stove or hotplate, adequate food storage shelves and food preparation space, and a table and chairs or suitable alternative eating arrangements.

FIRST AID — The housing facility must have prescribed first-aid equipment on hand. The employer or housing operator must also develop an emergency medical plan and a communication plan to follow in case of serious injury or illness involving residents.

CLOSURE AND ALTERNATIVE HOUSING — In the event an authorized government authority declares a housing facility uninhabitable and orders it vacated, the operator of the facility must provide the occupants with replacement lodging for up to 7 consecutive days. The replacement housing must be approved in advance by Oregon OSHA and must be available at no charge to the displaced occupants.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Representatives of Oregon OSHA are authorized to enter and inspect agricultural housing facilities in the state, and to cite employers found in violation. Non-compliance with an applicable standard or an order by Oregon OSHA may result in assessment of a civil money penalty by the agency and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Labor Contracting Unit, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463). The Bureau is responsible for licensing farm labor contractors in Oregon, and for issuing special endorsements authorizing operation of farmworker camps (see next entry). This agency is also responsible for enforcing the anti-retaliation provision noted above (Civil Rights Division, 971-673-0764).

LABOR AND EMPLOYMENT LAWS (FARMWORKER CAMPS)

STATUTORY CITATION: Or. Rev. Stat. §§ 658.705 - 658.850

RELATED REGULATIONS: Or. Admin. R. 839-014-0020 - 839-014-0630

GENERAL SUMMARY: In part, Chapter 658 of the Oregon statutes regulates the activities of farm labor contractors in the state and includes provisions requiring, in general, that anyone who provides housing for workers recruited or employed in the production or harvesting of farm crops (1) obtain a state license as a farm labor contractor, and (2) obtain a special license endorsement to operate a farmworker camp.

SPECIFIC TERMS AND CONDITIONS

LABOR CONTRACTOR LICENSING — An operator of a farmworker camp must apply to the state Bureau of Labor and Industries for a farm labor contractor license (see entry, Oregon — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration).

FARMWORKER CAMP ENDORSEMENT — Once licensed, the prospective farmworker camp operator must apply to the Bureau for a license endorsement authorizing that activity. Among the requirements for receipt of a camp endorsement are these:

- Pay the annual license fee.
- (2) File proof of financial ability to cover liabilities incurred in connection with operation as a contractor and housing operator. This obligation may be met by purchasing a surety bond or posting a cash deposit of at least \$15,000.
- (3) Pass a written, closed-book examination to test the applicant's knowledge and proficiency to conduct and manage the business of a labor contractor, including lawful operation of a farmworker housing facility.

RECORDKEEPING — Farmworker camp operators are required to make and maintain for a period of 3 years records related to their housing activities. Among other information, the records must include the names and addresses of the residents of the camp, the dates of occupancy of each resident, records of any financial transactions between the operator and the residents, and records of any government-agency inspections of the camp and any citations issued.

POSTING — In an exterior area of the camp easily visible to occupants and visitors, the camp operator is required to keep conspicuously posted a notice disclosing the existence of the surety bond or deposit posted by the camp operator. The notice must indicate the amount of the bond or deposit, and note that it is conditioned on the operator's payment of all sums legally owed to any employees or camp occupants, and any damages resulting from fraud, misrepresentation or other unlawful act or omission on the endorsee's part.

ACCESS TO TELEPHONE — When employees occupy farmworker housing that is owned or controlled by the employer, the employer must ensure that the occupants have reasonable access to an operating telephone at all times for emergency use. For non-emergency private use by employees, the employer must provide employees occupying the housing with reasonable access to a telephone located within a 2-mile radius of the housing.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A farmworker camp operator may not discharge, evict or discriminate in any manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463). This agency administers the licensing of farm labor contractors in Oregon, including the issuance of farmworker camp operator endorsements. A person adversely affected by fraud, misrepresentation, or any other alleged violation of these provisions committed by a farmworker camp operator, may file a complaint against the camp operator and may have a claim against the operator's bond or deposit.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Affairs, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Oregon OSHA is responsible for enforcing the safety and sanitation standards applicable to agricultural housing facilities in Oregon, as outlined in the previous entry. Any occupant of a farmworker camp who has a question or complaint about the housing itself may contact this agency.

◎ CIVIL RIGHTS LAWS (EMPLOYER-CONTROLLED HOUSING)

STATUTORY CITATION: Or. Rev. Stat. §§ 659A.250 – 659A.262

GENERAL SUMMARY: The state civil rights laws include provisions that (1) prohibit the restriction of access to employee housing controlled by employers, (2) limit the enforceability of employer rules governing the use and occupancy of employee housing, and (3) prohibit eviction or discrimination against an employee for exercising any rights granted by these provisions, which protect agricultural and non-agricultural employees without distinction.

SPECIFIC TERMS AND CONDITIONS

ACCESS RIGHTS — It is illegal for an employer to restrict access by government officials, medical doctors, education providers, or health care officials, or by the invited guests of a resident, to any housing owned, rented or controlled by an employer where employees are residing. The term "access" does not include the right to enter an individual employee's residence unless a member of the household consents to such entry, nor does it include the right of a visitor to use services provided by the employer for the exclusive use of employees. Invited persons must announce their presence on the premises upon request, and visitors who represent a government agency, service provider or religious organization must provide credentials identifying themselves as such. Invited guests are not entitled to enter work areas.

EMPLOYER-IMPOSED RULES — Rules adopted by an employer to regulate the use and occupancy of employee housing (including hours of access) are enforceable against the employee only if the rules (1) relate reasonably closely to the purpose of promoting the safety or welfare of residents or visitors, (2) preserve the employer's property from abuse, (3) apply fairly to all employees on the premises, and (4) are sufficiently explicit in directing or limiting the employees' conduct as to fairly inform them of what must be done to comply. Any such rules must be conspicuously posted at least 3 days prior to enforcement.

EVICTION OR DISCRIMINATION — It is unlawful for an employer to evict from any employer-provided housing, or to fire, suspend or discriminate against in any other manner, an employee or member of an employee's household, because such resident (1) has reported or complained concerning violations of the above provisions, or (2) has communicated with anyone who has access rights to the housing facility or invited anyone to residential areas.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* Violation of the employer-controlled housing provisions of the state civil rights laws subjects the violator to the same civil and criminal remedies and penalties prescribed for an unlawful employment practice under the same statute (*see entry, Oregon—Civil Rights—Fair Employment Practices*). Any employee living in employer-provided housing who has been denied visitation at the housing site, or any authorized visitor who has been denied access, may file a complaint with the Bureau within one year after the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Bureau of Labor and Industries fails to file formal charges or otherwise resolve a worker's complaint within one year after the complaint is filed, the worker may file suit against the employer involved at any time within 90 days thereafter, using a private attorney or a public legal services program. The worker also has the option of taking private legal action against the violator without first filing an administrative complaint with the Bureau, but any such suit must commence no later than one year after the violation occurred.

INSURANCE AND COMPENSATION

■ EMPLOYMENT DEPARTMENT LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 657.003 - 657.990

GENERAL SUMMARY: The Employment Department Law authorizes the payment of weekly unemployment insurance benefits to individuals who are temporarily out of work and have recent earnings from UI-covered employment. Benefits are financed from the state unemployment compensation trust fund, into which most Oregon employers are compelled to pay contributions in rough proportion to their payroll expenditures. With some exceptions, contributions are required of employers that (1) pay at least \$1,000 in wages during a calendar quarter, or (2) employ one or more individuals in each of 18 different weeks during a calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other employing unit which (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor on any day in each of 20 different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state. The amount of contributions for which an employer is liable is computed by multiplying the total taxable wages paid to each worker during the calendar year by the employer's annually prescribed UI tax rate. Taxable wages include only that part of the worker's earnings which is below a limit approximately equal to 80 percent of the statewide average annual wage paid by UI-subject employers during the second preceding calendar year.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other claimant not otherwise disqualified, is generally eligible to receive UI benefits only if the state administering agency finds that the worker (1) has registered for work at the state employment office and continued to report as directed by the office thereafter, (2) has made a claim for benefits, (3) is able to work, available for work, and actively seeking and unable to obtain suitable work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned at least \$1,000 from UI-covered employment and earned total wages equal to at least 1½ times the wages earned in the one quarter when wages were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is set at 1.25 percent of the total insured wages earned by the claimant over the four-quarter base period mentioned above, but in no case may the weekly benefit amount be less than 15 percent or more than 64 percent of the statewide average weekly wage for covered employment during the preceding calendar year. For any week in which an eligible individual is only partially unemployed, the amount of unemployment compensation payable that week is equal to the weekly benefit amount, minus that portion of the week's part-time earnings which exceeds (a) 10 times the state hourly minimum wage, or (b) 1/3 of the worker's weekly benefit amount, whichever sum is greater.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Oregon Employment Department, Salem, Oregon 97309-5068 (toll-free 877-345-3484). The Department has responsibility for administering the state unemployment insurance system, including determination of liability of employers for payment of UI contributions, collection of contributions from subject employers, determination of eligibility of workers for UI benefits, payment of benefits to eligible workers, and hearing and settling tax and benefit appeals. Initial unemployment compensation claims may be filed online, at https://secure.emp.state.or.us/ocs4/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 656.001 - 656.990

GENERAL SUMMARY: The Workers' Compensation Law obligates most employers in Oregon to maintain assurance with the state administering agency that each of their workers and the workers' beneficiaries will receive compensation in the event of the accidental injury or death of the worker in the course of employment, and that the cost of medical treatment and related services connected with the injury will be borne by the employer, who must either purchase a policy of workers' compensation insurance or qualify as a self-insurer.

Employers who comply with the obligation to secure compensation are generally protected against all other liability stemming from the accidental injury or death of an employee. On the other hand, a damage suit may be brought by an injured worker, or the legal representative of an injured worker, against any employer who has failed to cover its employees or is in default on its premiums, fees or deposits. In any such action, the employer is fully liable as if the Workers' Compensation Law had never been enacted, and the employer loses the right to claim as a defense that the worker's injury was caused by the negligence of a co-worker, that the injured worker's own negligence contributed to the accident, or that the injured worker had knowledge of the danger or assumed the risk that resulted in the injury. Non-compliance also subjects the employer to civil money penalties, a criminal fine, and loss of the right to employ workers in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Like most other employers in the state, any farm operator and other agricultural establishment in Oregon who employs one or more workers is required to protect them with workers' compensation insurance or qualify as a self-insurer.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm operator contracts with a farm labor contractor for the performance of agricultural services in the normal course of the farmer's business, the farm operator is responsible for providing workers' compensation coverage for the workers performing the services, unless the labor contractor provides such coverage before services under the contract commence.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288). The Division is responsible for enforcing compliance with the employer's obligation to secure workers' compensation coverage, and for assuring the payment of benefits for compensable injuries. As a condition for approval of most claims for compensation, any accident which results in an injury or death must be reported to the employer no later than 90 days after the accident. If the injury is compensable, the insurance carrier or the self-insured employer must provide immediate and continuing medical treatment for conditions resulting from the injury. The first installment of compensation must be paid within 14 days after the employer has knowledge of the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Hearings Division, Workers' Compensation Board, Salem, Oregon 97302 (503-378-3308). Any dispute that arises between a worker (or a worker's surviving dependents) and the employer or insurance carrier regarding eligibility for, the amount of, or the duration of benefits may be referred to the Hearings Division.

OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 656.802 - 656.807

GENERAL SUMMARY: Any disease or infection which arises out of and in the course of a worker's employment, and to which the worker is not ordinarily exposed other than on the job, is considered an injury for purposes of the Workers' Compensation Law and hence may entitle the worker to compensation payments and medical benefits.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the Workers' Compensation Law generally applies to all farm employment, the Occupational Disease Law protects farmworkers and their dependents from loss of income due to disablement or death from occupational disease, to the same extent as workers in covered non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm operator contracts with a farm labor contractor for the performance of agricultural services in the normal course of the farmer's business, the farm operator is responsible for providing workers' compensation coverage for the workers performing the services, unless the labor contractor provides such coverage before services under the contract commence.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288). Claims for occupational disease compensation are processed in the same manner as provided for accidental injuries under the Workers' Compensation Law. As a rule, occupational disease claims are void unless filed with the insurer or self-insured employer within one year after the worker first discovers the disease, or within one year after the date of disablement or the diagnosis of occupational disease, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Hearings Division, Workers' Compensation Board, Salem, Oregon 97302 (503-378-3308). Disputes regarding entitlement to compensation or the amount of compensation due may be appealed to the Worker's Compensation Board.

LABOR CONTRACTORS AND WORKER RECRUITMENT

○ EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 658.005 – 658.250

GENERAL SUMMARY: Chapter 658 of the Oregon statutes includes provisions regulating employment agencies in the state, briefly defined as individuals, businesses and organizations that directly or indirectly charge money to find or obtain jobs for workers, or that provide information regarding where jobs or workers may be procured. Among other requirements, an employment agency must file a \$5,000 surety bond (or equivalent evidence of financial responsibility) with the state, as security for payment of debts and any damages resulting from unlawful acts by the agency. Employment agencies are also obligated to keep accurate and current records of job orders, job referrals, fees and other aspects of their business, and to put in writing all registration and referral agreements made with any worker seeking employment through their services. The law imposes numerous additional duties and rules of conduct with which employment agencies are compelled to comply.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment agency law **does not apply** to farm labor contractors who are subject to the state farm labor contractor law (summarized in the next entry).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Bureau of Labor and Industries, Portland, Oregon 97232. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTOR LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 658.405 - 658.511

RELATED REGULATIONS: Or. Admin. R. 839-015-0000 - 839-015-0610

GENERAL SUMMARY: Chapter 658 of the state statutes contains provisions regulating the operations of farm and construction labor contractors in Oregon, in part by requiring them to obtain a license from the state, imposing certain duties on and prohibiting certain conduct by persons acting as labor contractors, and making parties who utilize the services of an unlicensed contractor legally liable for the contractor's misconduct.

PROVISIONS APPLICABLE TO AGRICULTURE

LICENSING — It is unlawful for anyone, for a fee, (1) to recruit, solicit, supply or employ workers to perform labor for another in the production or harvesting of farm products, or (2) to engage in such activities on behalf of a farm employer, or (3) to furnish board or lodging as an adjunct to recruitment or employment of farmworkers, without possessing a valid license from the state to do so.

INSURANCE AND BONDING — Among other prerequisites for receipt of a license, the applicant must (1) submit proof of adequate insurance for any vehicles to be used to transport workers, (2) submit proof of workers' compensation insurance, and (3) provide a surety bond or equivalent security of up to \$30,000 evidencing financial ability to promptly pay workers' wages and other specified obligations. The contractor must thereafter post a notice on the premises where employees working under the contractor are employed, specifying the name and address of the bonding company or the agency holding the equivalent security.

DUTIES — Among other responsibilities, each person acting as a farm labor contractor must:

- (1) Carry the contractor's license at all times when acting in that capacity.
- (2) Pay or distribute promptly to the individuals entitled thereto all money or other things of value entrusted to the contractor by anyone for that purpose.
- (3) At the time of recruitment or hiring, furnish to each worker a written statement, in English and any other language used by the contractor to communicate with the workers, describing (a) the method for computing compensation, (b) the terms and conditions of any bonus offered, (c) the terms of any loans made to the worker, (d) the conditions on any housing, health or daycare services to be provided, (e) the terms and conditions of employment, including the approximate start and end dates, (f) the terms of any clothing or equipment to be furnished to the worker, (g) the name and address of the owner of all operations where the worker will be working, (h) the existence of any labor dispute at the worksite, and (i) the worker's employment rights and remedies under state and federal law.
- (4) Each time the contractor makes a payment of wages, furnish each worker with a written statement itemizing total wages, the amount and purpose of each deduction from wages, and the hours worked (or piecework production) and rate of pay.
- (5) Immediately notify the U.S. Postal Service and the state enforcement agency whenever there is a change in the contractor's permanent address.

PROHIBITED ACTIVITIES — Among other unlawful acts, no one acting as a farm labor contractor may willfully make any false, fraudulent or misleading statement to any person, or circulate any false information concerning employment. It is also illegal for a farm labor contractor to use force, intimidation, or threats of dismissal or deportation to induce a worker to give up any part of the compensation to which the worker is entitled.

USE OF CONTRACTOR'S SERVICES — A farm operator or anyone else who uses the services of an unlicensed labor contractor is personally, jointly and severally liable with the contractor for any damages awarded to a worker who prevails in a civil suit against the contractor for non-compliance or retaliation.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A farm labor contractor may not discharge or discriminate in any other manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463). The Bureau is responsible for enforcing compliance with the duties and restrictions imposed on contractors by the labor contractor law. Any worker who has evidence of a violation may submit a complaint to the Bureau, which may suspend, revoke or refuse to renew the license of the contractor if the ensuing investigation supports the allegations. The Bureau also has authority to impose a civil money penalty of up to \$2,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After filing a complaint with the Bureau, a worker has a right to civil action against a contractor for most violations directly affecting the worker, but any such suit must be filed no later than 2 years after the date of the infraction. For each violation, the worker is entitled to recover actual damages or \$1,000, whichever is greater, plus court costs and attorney's fees.

MISCELLANEOUS LABOR LAWS (MISREPRESENTATION IN RECRUITMENT)

STATUTORY CITATION: Or. Rev. Stat. §§ 659.815 - 659.820

GENERAL SUMMARY: No person, firm or other entity which employs labor may bring workers into Oregon for employment, or induce or persuade workers to change from one place of employment to another within the state, by misrepresentation or on any false pretense concerning the amount of compensation to be paid or the existence or non-existence of a strike, lockout or other pending labor dispute. Neglecting to state in an advertisement or proposal for employment that there is a strike, lockout or unsettled labor problem at the prospective workplace when such a condition actually exists is also illegal.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to recruitment for employment of any kind, agricultural or non-agricultural.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is influenced through deception or misrepresentation to change places of employment, or is otherwise recruited in violation of these provisions, may sue the responsible party for recovery of actual damages sustained as a consequence, or \$500, whichever is greater, plus reasonable attorney's fees and court costs.

LABOR RELATIONS AND COLLECTIVE BARGAINING

LABOR RELATIONS LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 663.005 - 663.325

GENERAL SUMMARY: Chapter 663 of the state statutes defines certain unfair labor practices by employers and labor organizations, and establishes an administrative structure for determining appropriate collective bargaining units, for holding state-supervised employee elections to decide questions concerning union representation, and for resolving charges of unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: Oregon's labor relations law **does not apply** to persons employed in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Employment Relations Board, Salem, Oregon 97301. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

STATE PESTICIDE CONTROL ACT

STATUTORY CITATION: Or. Rev. Stat. §§ 634.005 - 634.992

RELATED REGULATIONS: Or. Admin. R. 603-057-001 - 603-057-0535

GENERAL SUMMARY: The State Pesticide Control Act regulates the registration, distribution and use of pesticides in the state. Among the measures in the Act most immediately relevant to agricultural labor are provisions requiring the licensing and certification of pesticide applicators and defining certain prohibited acts involving the use of pesticides. The Act also authorizes the state agriculture department to adopt and enforce administrative rules further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION —

Pesticide Operators — Any business engaged in the application of pesticides on the land or property of another must be licensed by the state. A pesticide operator's license may not be issued until the applicant has, in addition to other prerequisites, furnished evidence of liability insurance coverage or posted comparable security covering injury or death to persons, or damage to property, resulting from the applicant's pesticide operations. Minimum coverage is \$25,000 for bodily injury and \$25,000 for property damage.

Pesticide Applicators — Individuals who apply pesticides while in the employ of a pesticide operator must be licensed. Among other licensing conditions, an applicant must demonstrate by written examination adequate knowledge of pesticides, application practices, precautions to be taken, pesticide laws and regulations, and related issues.

Private Applicators — Farm operators and their employees who apply restricted-use pesticides to crops on their own land must secure a private applicator's certificate from the state. Such individuals must, among other certification requirements, pass a written examination covering such subjects as pesticides, application techniques and practices, safety precautions, and pesticide laws and regulations.

Aerial Applicators — No individual may apply pesticides by aircraft unless the individual holds a valid aerial pesticide applicator certificate issued by the state. An aerial certificate may be issued only if the applicant (1) is a licensed pesticide applicator, (2) holds a valid commercial pilot certificate for the type of aircraft to be used in applying pesticides, (3) has at least 50 hours of prescribed pesticide application experience or related flight training, and (4) has passed an examination testing the applicant's knowledge regarding pesticide application by aircraft.

RECORDKEEPING — Pesticide operators must maintain a record of each pesticide application, showing the name of the party for whom the pesticide was applied, the approximate location of the property treated, the date and time of application, the person who supplied the pesticide, the trade name and strength of the product, the amount or concentration used, the specific crops targeted, the equipment employed (including the FAA registration number of any aircraft used), and the name of each pesticide applicator and trainee who performed the actual application.

LIABILITY CLAIMS — No legal action may be taken against a pesticide operator for injury or damage from the use of a pesticide unless the claimant has filed a report of the loss with the state enforcement agency, and forwarded a copy of the report to the operator allegedly responsible and to the party for whom the application was performed, within 60 days from the date of the loss or the claimant's discovery of the loss.

PROHIBITED ACTS — Among other offenses described in the Act, it is illegal for anyone (1) to operate any faulty or unsafe pesticide spray apparatus, aircraft or other application equipment, (2) to perform pesticide application activities in a faulty, careless or negligent manner, (3) to refuse or neglect to keep required records, (4) to make false, misleading or fraudulent reports required by the Act, (5) to use pesticides without proper licensing or certification, if required, or (6) to use any pesticide product in a manner inconsistent with its labeling.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticides Program, Oregon Department of Agriculture, Salem, Oregon 97301 (503-986-4635). The Department is responsible for the registration of pesticide products in Oregon, the licensing and certification of pesticide applicators, and enforcement of compliance with statutory and regulatory application standards. The Department may revoke, suspend or refuse to issue or renew any license or certificate if it determines that an applicant, licensee or certificate-holder has violated any of these provisions. Violation is a misdemeanor, punishable by fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OREGON SAFE EMPLOYMENT ACT (WORKER PROTECTION)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-6000, 437-004-1005, and 437-004-1041

GENERAL SUMMARY: The Oregon Safe Employment Act includes explicit language authorizing the state consumer and business services department to adopt standards requiring agricultural employers to provide adequate safety equipment and adequate training for workers mixing, loading, applying or otherwise handling hazardous chemicals.

SPECIFIC TERMS AND CONDITIONS

EPA WORKER PROTECTION STANDARD — Using the authority noted above, the consumer and business services department has adopted the worker protection standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards), applicable to all agricultural workers and handlers working with, in or around pesticides. In addition, the department has adopted related rules especially relevant to the safety and health of workers exposed to pesticides, briefly summarized here:

PERSONAL PROTECTIVE EQUIPMENT — Farm employers are required to assess their workplaces to determine if hazards exist, or are likely to be present, which would make the use of personal protective equipment necessary to protect their workers. If so, employers must select appropriate protective equipment and ensure that each exposed employee use it. The employer is responsible for paying the cost of specialty-type equipment, but the workers must pay for everyday protective items like gloves, long-sleeve shirts, long pants, conventional boots, broad-brim hats, and sunscreen.

Workers who are required to use personal protective equipment must receive training in its use, provided by the employer. Training must cover such topics as (1) when protective equipment is necessary, (2) how to put on, adjust and remove the equipment, and (3) the proper care, maintenance, storage and disposal of the equipment.

RESPIRATORY PROTECTION — When necessary to protect a worker against the adverse health effects of breathing airborne pesticides or other agricultural chemicals, a farm employer is required to provide the worker with a respirator and the worker is required to use it. Moreover, the employer must have an effective, written respiratory protection program that includes procedures for (1) selecting, fitting, maintaining and discarding respiratory equipment, and (2) training workers in the respiratory hazards to which they may be exposed and the effective use of respiratory equipment. In some situations, the program may include certain prescribed medical evaluations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Representatives of Oregon OSHA are authorized to enter and inspect agricultural workplaces in the state, and to cite employers found in violation. Non-compliance with an applicable standard or an order by Oregon OSHA may result in assessment of a civil money penalty by the agency and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* This agency is responsible for enforcing the anti-retaliation provision noted above.

OREGON SAFE EMPLOYMENT ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-9800

GENERAL SUMMARY: The Oregon Safe Employment Act includes language authorizing the state consumer and business services department to adopt standards requiring agricultural employers to provide information to their workers about the hazardous chemicals to which they may reasonably be expected to be exposed in the workplace.

SPECIFIC TERMS AND CONDITIONS: Under the broad rulemaking authority noted above, the consumer and business services department has adopted a hazard communication standard explicitly applicable to agricultural employers when a hazardous chemical is known to be present in the workplace in such a way as to expose workers under normal conditions of use or in a foreseeable emergency.

HAZARD COMMUNICATION PROGRAM — Farm employers must develop and implement a written hazard communication program specific to their workplace. It must include, among other elements, (1) a list of all the hazardous chemicals in the workplace, and (2) a description of the methods for informing their workers about the hazards of non-routine tasks.

PRODUCT LABELS — Employers must ensure that the product label that shipped with each hazardous chemical in the workplace is legible and displayed on the container in the work area. Pesticide application equipment such as spray tanks and backpack-type sprayers do not have to be labeled, as long as the pesticide handler still has access to the product label.

SAFETY DATA SHEETS — The employer must have a safety data sheet for each hazardous chemical used or present in the workplace, and to which workers may be exposed during normal work conditions or in an emergency — this includes residual pesticides encountered by workers doing hand labor operations in the field. All such data sheets must be readily accessible to workers on all shifts.

EMPLOYEE INFORMATION AND TRAINING — At the time of their initial assignment, or whenever a new hazard is introduced into their work area, the employer must provide training for the workers who are or may be exposed to a hazardous chemical. Training must include, among other information, (1) methods of detecting the presence or release of a hazardous chemical in the work area, (2) the physical and health hazards of the chemicals in the work area, and (3) the measures workers can take to protect themselves from the hazards involved, including appropriate work practices and personal protective equipment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Non-compliance with the hazard communication standards may result in assessment of a civil money penalty by the Department and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* This agency is responsible for enforcing the anti-retaliation provision noted above.

OREGON SAFE EMPLOYMENT ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-0800

GENERAL SUMMARY: The Oregon Safe Employment Act confers broad authority on the state consumer and business services department to set standards to assure every covered employee a safe and healthful place of employment.

SPECIFIC TERMS AND CONDITIONS: The consumer and business services department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Oregon's ammonia safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply to all agricultural establishments.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). This agency is responsible for enforcing the anti-retaliation provision noted above.

TRANSPORTATION

OREGON VEHICLE CODE (WORKER TRANSPORT VEHICLES)

STATUTORY CITATION: Or. Rev. Stat. §§ 820.010 - 820.070

RELATED REGULATIONS: Or. Admin. R. 735-120-0000 - 735-130-0000

GENERAL SUMMARY: Any motor vehicle which (1) is furnished by an employer who employs or uses 2 or more workers, and (2) is used to transport one or more workers to and from their places of employment, is subject to minimum standards embodied in the vehicle safety code. These provisions apply implicitly to agricultural employers who transport farmworkers to and from agricultural job sites.

SPECIFIC TERMS AND CONDITIONS

CONSTRUCTION AND EQUIPMENT — Passenger automobiles, station wagons, trucks, buses and other motor vehicles operated by or on behalf of employers must be constructed and equipped in accordance with detailed specifications governing coupling devices, lighting fixtures and reflectors, the motor exhaust system, rear-view mirrors, service and parking brakes, the steering mechanism, tires, warning and signaling devices, and windshield wipers.

OPERATING REGULATIONS — Employers are responsible for observance of driving rules, and for compliance with regulations on the loading and carrying of passengers and freight, maximum daily hours of service by drivers, minimum age and skill of drivers, physical condition of drivers, refueling, road warning devices, and the transportation of gasoline and explosives.

PASSENGER SAFETY — Vehicles must have properly designed or equipped emergency exits, fire extinguishers, first-aid kits, means of entry and exit, side walls, and tailgates or other means of restraining freight and passengers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Vehicle Equipment Safety Standards Office, Division of Motor Vehicles, Oregon Department of Transportation, Salem, Oregon 97314 (503-986-4198). The Division is authorized to adopt and amend from time to time the safety code applicable to worker transport vehicles. In enforcing the code, DMV may inspect any vehicle subject thereto and may order corrective action by the vehicle's owner whenever it finds a violation of minimum safety standards. Failure by a vehicle owner to comply with the code or an order by the DMV is treated as a Class B traffic infraction, as is operation of such a vehicle in violation of the code.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Affairs, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Oregon OSHA has concurrent jurisdiction with the Motor Vehicles Division in adopting rules governing worker transport vehicles and in enforcing those rules.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 653.010 - 653.269

RELATED REGULATIONS: Or. Admin. R. 839-020-0000 - 839-020-1020

GENERAL SUMMARY: Provisions in Chapter 653 of the Oregon statutes prohibit most employers in the state from employing workers at wages less than the Oregon minimum wage. In early 2016, the state approved a measure raising the hourly minimum wage in seven steps and establishing separate rates for non-urban counties, standard counties, and the Portland metro area:

Effective July 1, 2017: \$10.00 in non-urban counties, \$10.25 in standard counties, \$11.25 in Portland Metro

Effective July 1, 2018: \$10.50 in non-urban counties, \$10.75 in standard counties, \$12.00 in Portland Metro

Effective July 1, 2019: \$11.00 in non-urban counties, \$11.25 in standard counties, \$12.50 in Portland Metro

Effective July 1, 2020: \$11.50 in non-urban counties, \$12.00 in standard counties, \$13.25 in Portland Metro

Effective July 1, 2021: \$12.00 in non-urban counties, \$12.75 in standard counties, \$14.00 in Portland Metro

Effective July 1, 2022: \$12.50 in non-urban counties, \$13.50 in standard counties, \$14.75 in Portland Metro

Beginning July 1, 2023, and on July 1 each year thereafter, the standard-county minimum wage will be adjusted to reflect any increase in the August-to-August consumer price index. The non-urban minimum will be set at \$1.00 per hour less than the standard rate, and the Portland Metro rate will be \$1.25 over the standard rate.

Every employer subject to the minimum wage must keep a record of the name, address and occupation of each employee and the actual hours worked each week and each pay period. With every payment of wages, subject employers must provide each worker with an itemized statement of the amount and purpose of each deduction from the worker's wages.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERAGE — Unless excluded by one of the exceptions noted below, farmworkers in Oregon are entitled to receive at least the minimum wage for every hour of labor, in accordance with the schedule outlined above, and their employers must observe the same recordkeeping and wage itemization requirements applicable to other subject employers. In applying the minimum wage, employers may deduct the fair-market value of lodging, meals or other facilities or services furnished for the private benefit of their workers.

EXCEPTIONS — The following classes of farmworkers are not covered by the state minimum wage law:

- (1) Workers employed as hand harvest or pruning laborers who are (a) paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, and (b) working for an employer who did not use more than 500 worker-days of piecework-paid farm labor during any calendar quarter of the preceding calendar year.
- (2) Hand-harvest or pruning workers who (a) are paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, (b) commute daily from their permanent residence to the farm job site, and (c) were employed in agricultural labor less than 13 weeks during the preceding calendar year.
- (3) Hand-harvest workers who (a) are 16 years of age or younger, (b) are paid on a piece-rate basis in a recognized piecework operation, and (c) are paid at the same piece rate as workers over the age of 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). Representatives of the Bureau are authorized to examine payroll records at any place of employment in the state, interview employees, and take other steps to ascertain compliance with the minimum wage provisions. The Bureau may take legal action to recover unpaid minimum wages on behalf of any worker who has received less than the amount to which he or she is entitled. In addition to the unpaid wages involved, an employer found to have unlawfully paid less than the minimum wage is liable for court costs and attorney's fees, as well as civil penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Or. Rev. Stat. §§ 653.010 - 653.269

RELATED REGULATIONS: Or. Admin. R. 839-020-0030

GENERAL SUMMARY: Chapter 653 of the state statutes contains provisions which authorize the state labor commissioner to establish maximum hours of work, overtime pay requirements, and minimum meal and rest periods in most industries and for most occupations in Oregon. Regulations adopted under that authority require most employers in the state to pay their workers no less than 1½ times their regular rate of pay for all work time in excess of 40 hours a week.

The statute explicitly extends overtime protection to employees at any cannery, drier, or packing shed which is not on a farm, or which processes agricultural crops produced by more than one farming operation, requiring time-and-a-half for employment in excess of 10 hours a day. Piece-rate workers at such establishments must receive $1^{1}/2$ times the regular piece rate for all production performed after 10 hours in any one day.

PROVISIONS APPLICABLE TO AGRICULTURE

The provision authorizing administrative adoption of overtime compensation and other hour standards *does not apply* to the production or harvesting of agricultural crops, or to the on-farm packing, curing, canning, freezing or drying of crops produced on the same farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT AND COLLECTION LAWS

STATUTORY CITATION: Or. Rev. Stat. §§ 652.110 - 652.990

GENERAL SUMMARY: Chapter 652 of the state statutes contains numerous provisions governing the payment and collection of wages, including requirements related to the medium of pay, paydays and pay periods, final wages, deductions from pay, and itemized pay statements. These provisions generally apply to employers and employees without distinction between agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

MEDIUM OF PAY — In general, an employer may pay wages (1) by check or other non-cash instrument, payable without discount in lawful U.S. money, on demand, at a place of business in the county where the employee lives or works, (2) by direct deposit to a financial institution of the employee's choosing, or (3) using an ATM card, payroll card or other means of electronic transfer, provided the employee is able to (a) make an initial withdrawal of the entire amount of net pay without cost to the employee, or (b) choose some other payment method that involves no cost to the employee.

PAYDAYS AND PAY PERIODS — Every employer must establish a regular payday on which all employees are paid their earnings. Paydays may not be spaced more than 35 days apart.

WAGES AT TERMINATION — Whenever an employer discharges a worker or the worker quits, all unpaid wages become due and payable not later than the next business day.

Seasonal Farmworker Exception — A worker employed as a seasonal farmworker is generally entitled to final wages immediately. However, when termination occurs at the end of the harvest season and the worker is employed by a farmworker camp operator and lives in a licensed camp cost-free, final wages are payable by noon on the day after termination. A seasonal farmworker who quits the job without giving at least 48 hours' notice of intention to quit is entitled to receive final pay within 48 hours after termination or on the next regularly scheduled payday, whichever is earlier.

DEDUCTIONS — An employer is prohibited from withholding, deducting or diverting any portion of an employee's wages unless the deduction (1) is required by law, (2) is authorized in writing by the employee, payable to someone other than the employer, and recorded in the employer's books, or (3) is authorized under a collective bargaining agreement.

PAY STATEMENTS — Each time an employee is paid, the employer must furnish the worker with a written statement itemizing total earnings and each deduction.

ANNUAL PAY STATEMENT — At the request of an employee or former employee, any employer who uses 5 or more workers in any calendar month must, by March 10 of each year, give the employee a statement showing the total compensation paid during the previous calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a wage claim, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232. The Bureau has a statutory obligation to investigate and attempt to settle controversies between workers and employers regarding compensation, including allegations of unpaid wages. The Bureau is expressly authorized to sue employers to collect valid claims assigned in trust by workers for collection. In addition to unpaid wages, violators of the wage payment provisions are liable for civil penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

● PERSONAL INCOME TAX ACT OF 1969

STATUTORY CITATION: Or. Rev. Stat. §§ 316.002 - 316.992

GENERAL SUMMARY: The Personal Income Tax Act imposes a tax on the income of Oregon residents, and on the income of non-residents that is ascribable to sources within the state. At the time of payment of wages to an employee, employers generally must deduct and retain from such wages an amount equivalent to the employee's state income tax liability on the earnings, as determined from state-issued tax withholding tables. Employers are required to periodically forward withheld taxes to the state and to advise their employees of the amounts withheld and reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for remuneration paid to a farmworker for services in the planting, cultivation or harvest of seasonal agricultural crops where total wages for the year are less than \$300, the wages of agricultural workers are subject to state income tax withholding the same as the wages of most non-agricultural employees.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption of some farmworkers from withholding from wages, such workers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Personal Tax and Compliance Division, Oregon Department of Revenue, Salem, Oregon 97301 (503-945-8440; toll-free 800-356-4222). The Department is responsible for the collection of the state income tax, and hence for the enforcement of withholding of taxes at the source of payment. Employers are subject to civil and criminal penalties for failure to report and remit withheld taxes. A worker who believes state income taxes have been improperly withheld, reported or forwarded should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Pennsylvania

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
Child Labor	Age, Hour, and Related Standards	•	Child Labor Act Seasonal Farm Labor Act (Employment of Minors) Act of June 23, 1931	589 589 590
	Compulsory School Attendance	•	Public School Code of 1949 (Compulsory School Attendance)	590
	Other	•	Public School Code of 1949 (Employment of Children) Workers' Compensation Act (Minors Illegally Employed)	591 591
Civil Rights	Fair Employment Practices	0	Pennsylvania Human Relations Act	592
	Wage Discrimination	•	Equal Pay Law Seasonal Farm Labor Act (Equal Pay)	592 593
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Health and Safety	Workplace Safety	0	General Safety Law	593
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	Agricultural Field Sanitation	•	Seasonal Farm Labor Act (Drinking Water and Toilets in the Field)	594
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CHILD LABOR

CHILD LABOR ACT

STATUTORY CITATION: 43 Pa. Stat. §§ 40.1 - 40.14

GENERAL SUMMARY: With some exceptions, Pennsylvania's Child Labor Act (1) forbids the employment of children under 14 years of age, (2) restricts the hours during which youth under the age of 18 may be employed, (3) requires minors to obtain a work permit as a prerequisite for employment, (4) gives minors the right to rest breaks during work, (5) prohibits employment of minors in establishments regarded as hazardous to health, safety or morals, and (6) imposes recordkeeping and other duties on employers using child labor.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — With only narrow exceptions, children under 14 may not be employed.

HOURS LIMITATIONS —

Children Age 14 and 15 — No child 14 or 15 years of age may be employed before 7:00 a.m. or after 7:00 p.m. (except during summer vacation periods, when work is allowed between 7:00 a.m. and 10:00 p.m.). Furthermore, 14- and 15-year-olds generally may not work more than 3 hours on a school day or 8 hours on a non-school day, more than 18 hours during a school week or 40 hours in a non-school week, or more than 6 consecutive days.

Children Age 16 and 17 — When school is in session, 16- and 17-year-olds are not permitted to work before 6:00 a.m. or after 12:00 midnight (except on nights preceding non-school days, when such minors may work until 1:00 a.m.), nor for more than 28 hours during a school week or for more than 8 hours in a single day. During school vacation periods, 16- and 17-year-olds may not be employed or permitted to work for more than 6 consecutive days, for more than 44 hours in a single week (or 48 hours, if agreed to voluntarily by the minor), or for more than 10 hours in a single day.

WORK PERMITS — Before anyone under 18 may be employed, the employer must obtain and keep on file a work permit, issued by the school district where the minor resides, upon application by the minor's parent or guardian.

REST BREAKS — No one under the age of 18 may work for more than 5 continuous hours (including any break time of less than a half-hour) without a rest break of at least 30 minutes.

PROHIBITED EMPLOYMENT — The only agriculturally related occupations statutorily closed to minors as detrimental to their well-being are stripping and sorting of tobacco. This restriction applies to workers under 16 years of age.

RECORDKEEPING — Employers must keep a list of all workers under the age of 18 who are employed in their establishments. The list must include a record of the hours worked by each minor each day and week, as well as their start- and end-times and the times allowed for breaks.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department may enter any workplace where minors are or may be employed, to ascertain compliance with the child labor provisions. The Department is authorized to prosecute employers found in violation, in criminal proceedings before a magisterial district judge within the district where the offense was committed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Apart from their role in the issuance of work permits, the local school districts are vested with the same inspection and prosecutorial powers as those exercised by the Department of Labor and Industry.

SEASONAL FARM LABOR ACT (EMPLOYMENT OF MINORS)

STATUTORY CITATION: 43 Pa. Stat. § 1301.203

GENERAL SUMMARY: Among many other worker protections afforded by the Seasonal Farm Labor Act, the law includes provisions protecting children under the age of 14 from forced farm labor, and augments the hours restrictions imposed by the state child labor law, outlined in the previous entry.

SPECIFIC TERMS AND CONDITIONS

FORCED LABOR PROHIBITED — No child under the age of 14 (other than a member of the employer's immediate family) may be required to work as a seasonal farmworker, or penalized for failure to work as a seasonal farmworker.

HOURS RESTRICTION — On any regular school day in the district where the child is residing, no child between the ages of 14 and 17 (inclusive) may be employed in seasonal farmwork between 7:00 a.m. and one hour following the end of the school day of the local district where the child resides. This restriction applies whether or not the child is registered as a student in that district.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department may enter any workplace where minors are or may be employed, to ascertain compliance with these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In enforcing the state child labor laws, the local school districts are vested with the same inspection and prosecutorial powers as those exercised by the Department of Labor and Industry.

ACT OF JUNE 23, 1931

STATUTORY CITATION: 43 Pa. Stat. §§ 67 - 71

GENERAL SUMMARY: Chapter 2A of the state labor statutes imposes conditions on the employment of non-resident minors in food crops and canneries.

SPECIFIC TERMS AND CONDITIONS

A child who is under 16 years old and not a permanent resident of Pennsylvania may not be employed in any cannery, or in the cultivation or harvesting of berries, fruits or vegetables, during the time the child is required to attend school in his or her home state. If, however, the child is otherwise lawfully employed in Pennsylvania during a home-state summer vacation period, the employer may have 15 days in which to discontinue a child's employment after the date of his or her required return to school after the summer vacation period ends.

Likewise, cannery operators and farm employers in Pennsylvania are generally forbidden from employing non-resident workers under 16 unless the employer has on file a certificate issued by the local school district in the child's home state, certifying the child's age and the exact periods during which the child is required to attend school there.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In enforcing the state child labor laws, the local school districts are vested with the same inspection and prosecutorial powers as those exercised by the Department of Labor and Industry.

■ PUBLIC SCHOOL CODE OF 1949 (COMPULSORY SCHOOL ATTENDANCE)

STATUTORY CITATION: 24 Pa. Stat. §§ 13-1326 - 13-1333

GENERAL SUMMARY: In general, every child residing in Pennsylvania who is at least 8 years old but not yet 17 is required to attend a day school in which the state-prescribed curriculum is taught in the English language. It is the legal responsibility of every parent, guardian or other person having control of a child of compulsory school age to send the child to such a school for the entire term during which the public schools where the child is living are in session. Among other exceptions, a child who has attained the age of 16 and is regularly employed under a valid employment certificate issued by the local school district is not required to attend school.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERAGE — Along with other children of compulsory school age who are members of farmworker households and not excused from compliance under the exceptions cited below, every migratory child between 8 and 17 years of age temporarily residing in Pennsylvania in connection with seasonal employment is subject to the compulsory school attendance provisions. The parent or other person in charge of such a child must assure the child's attendance during the entire time the local public schools are in session.

EXCEPTIONS — The compulsory attendance law does not apply to (1) any child 14 years of age who is employed in agriculture under a valid work permit issued by the local school district and who has satisfactorily completed the elementary grades, or (2) any child age 15 or over who is employed in farmwork under a work permit, regardless of educational attainment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance requirements are enforced by the local school districts, through attendance officers employed for that purpose. Attendance officers are vested with full police powers and may enter any place where children are employed, inspect employment certificates and work permits, and arrest without warrant any child who fails to attend school in compliance with these provisions. A parent or person in parental relation to a child of compulsory school age who, after 3 days' written notice of a violation, fails to comply with his or her duty to assure the child's attendance is subject to a fine of \$300, completion of a parenting education program, or a jail term of up to 5 days.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PUBLIC SCHOOL CODE OF 1949 (EMPLOYMENT OF CHILDREN)

STATUTORY CITATION: 24 Pa. Stat. §§ 13-1391 - 13-1394

GENERAL SUMMARY: The Public School Code includes provisions regulating the employment of children, generally without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT CERTIFICATES AND PERMITS — No one may employ or accept services from any child under the age of 18 during the hours when the public schools are in session, unless the employer has on file a general employment certificate, or a farm or domestic service permit, issued by the local school district.

REPORTING — Twice each year, every person, firm, association or corporation employing a child between the ages of 14 and 18 must submit to the school district where the child resides a written report showing the child's name, age, and place of residence, and the name of the child's parent or guardian.

POSTING — Anyone who employs a minor 14 to 18 years old during public school hours, and during the period of compulsory attendance in the local school district, must publicly post at the workplace a list of all such children, giving each child's name, age, place of residence, the name of the child's parent or guardian, the date of issuance of the employment certificate, and the name of the issuing party.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local school districts, officials of which are authorized to demand and inspect employment certificates and work permits held by employers utilizing child labor, and to examine the lists of employed minors required by law to be maintained at each workplace where minors are employed during school hours. The Public School Code prescribes criminal penalties for violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ WORKERS' COMPENSATION ACT (MINORS ILLEGALLY EMPLOYED)

STATUTORY CITATION: 77 Pa. Stat. § 672

GENERAL SUMMARY: The Workers' Compensation Act entitles any worker who, at the time of a compensable on-the-job injury, was under 18 years of age and was employed or permitted to work in violation of the state child labor laws, to collect 150 percent of the amount of compensation that would otherwise be payable if the minor had been legally employed. The employer and not the insurance carrier is liable for the additional compensation, and any provision in a workers' compensation policy undertaking to relieve an employer from such liability is void.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment which (1) pays at least \$1,200 to any one worker during the calendar year for agricultural labor, or (2) employs any one worker for at least 30 days of farm labor during the year, must protect all its employees with workers' compensation coverage and hence is liable for additional compensation for the injury or death of any minor unlawfully employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383). In its administering and enforcement roles under the Act, the Department must respond to the petition of any worker (including a minor employed contrary to the child labor laws) who requests a hearing and determination regarding workers' compensation which has not been paid in accordance with the law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

PENNSYLVANIA HUMAN RELATIONS ACT

STATUTORY CITATION: 43 Pa. Stat. §§ 951 – 963

GENERAL SUMMARY: The Pennsylvania Human Relations Act is intended, in part, to safeguard the right of individuals in the state to obtain and hold employment regardless of race, color, familial status, religious creed, ancestry, handicap or disability, age, sex, national origin, or the use of a guide or support animal because of blindness, deafness or physical handicap. In pursuit of that objective, the Act establishes a state-administered mechanism for reporting and resolving complaints involving employment discrimination on any such grounds. The law generally applies to any individual, firm or other entity with 4 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: While the Human Relations Act's protections against discrimination in housing and public accommodations apply without regard to a person's occupational or industrial classification, the fair employment provisions **do not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pennsylvania Human Relations Commission, Harrisburg, Pennsylvania 17101. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

EQUAL PAY LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 336.1 - 336.10

GENERAL SUMMARY: In general, the Equal Pay Law forbids employers in Pennsylvania from paying wages to any worker at a rate less than the rate paid to employees of the opposite sex in the same establishment, for work under comparable conditions and on jobs whose performance requires comparable skills. Seniority or merit pay systems, however, which do not discriminate on the basis of sex are generally not regarded as unlawful.

The law applies only to employees who are not already protected by the wage discrimination provision in the federal Equal Pay Act (see entry, U.S. — Civil Rights — Wage Discrimination).

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment in Pennsylvania that did not employ more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) is subject to the prohibition against gender-related wage discrimination under the state Equal Pay Law.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department have authority to enter any employer's place of business to inspect and copy payroll and other employment records, to observe work operations, to question employees, and to obtain other information necessary to the enforcement of the Equal Pay Law. At the request of a worker paid less than full wages as a result of unlawful sex discrimination, the Department may bring required legal action on the worker's behalf to collect the claim. In addition to civil liability, violators are also subject to a criminal fine of from \$50 to \$200 or imprisonment for from 30 to 60 days.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker or group of workers with a claim for unpaid wages under the Equal Pay Law may bring suit in civil court in lieu of filing an administrative claim with the Department. An employer who willfully and knowingly violates these provisions is liable to the worker or workers affected in the amount of their unpaid wages and, in addition, an equal amount as liquidated damages, plus attorney's fees and court costs. Civil action must be commenced within 2 years from the date of the alleged violation.

SEASONAL FARM LABOR ACT (EQUAL PAY)

STATUTORY CITATION: 43 Pa. Stat. § 1301.204

GENERAL SUMMARY: The Seasonal Farm Labor Act includes a provision outlawing wage discrimination on account of sex.

SPECIFIC TERMS AND CONDITIONS: No employer of seasonal farm labor may pay wages to such workers at a rate less than the rate the employer pays to workers of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. This does not preclude payment of unequal wages pursuant to an established system which measures earnings by quantity or quality of production.

As used here, the term "seasonal farm labor" refers, in large part, to any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department have authority to enter an employer's place of business to inspect payroll and other employment records, to observe work operations, to question employees, and to obtain other information necessary for the enforcement of the equal pay provision in the Seasonal Farm Labor Act. At the request of a worker paid less than full wages as a result of unlawful sex discrimination, the Department may bring required legal action on the worker's behalf to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HEALTH AND SAFETY

O GENERAL SAFETY LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 25-1 - 25-15

GENERAL SUMMARY: With few exceptions, Pennsylvania's general safety law provides that places of employment must be so constructed, equipped, arranged, operated and conducted as to provide reasonable and adequate protection to the life, health and safety of the workforce. The state labor department is given broad authority to adopt rules implementing this general policy and to enforce compliance by the employers to whom they apply.

PROVISIONS APPLICABLE TO AGRICULTURE: The general safety law does not apply to agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Occupational and Industrial Safety, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SEASONAL FARM LABOR ACT (DRINKING WATER AND TOILETS IN THE FIELD)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.301 – 1301.308

RELATED REGULATIONS: 7 Pa. Code Ch. 82

GENERAL SUMMARY: Among other requirements, the Seasonal Farm Labor Act directs each employer of seasonal farm labor in Pennsylvania to provide a sufficient supply of cool, potable drinking water in the working area, and sufficient, suitable and separate toilet facilities for men and women within a reasonable distance of the working area. The state agriculture department is authorized to adopt rules, consistent with statutory language, detailing sanitation requirements at agricultural worksites.

The term "seasonal farm labor" in this context generally means any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — On all premises where seasonal farmworkers are employed, the employer must provide a sufficient supply of cool, potable drinking water at a reasonable distance from the working area. The regulations require at least one drinking fountain, plus 10 gallons of potable water, for each 100 workers or each crew. Containers used to supply water must meet prescribed sanitation standards. The use of common drinking vessels is prohibited.

TOILET FACILITIES — In general, on all premises where seasonal farmworkers are employed, the employer must provide (1) at least one toilet within 1,000 feet of any work area where up to 10 such workers are employed, (2) one toilet within 500 feet of any work area where 11 to 15 workers are employed, or (3) one toilet for every 15 males or fraction thereof, plus one toilet for every 15 females or fraction thereof, within 500 feet of any work area where 16 or more workers are employed. As an alternative in any such case, the employer may offer a written agreement, in the workers' native language, to provide the workers with transportation to a toilet facility at least once during every 4 hours of work time.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315). Any seasonal farmworker or representative of seasonal workers who has knowledge of a violation of the sanitation provisions of the Act may request an inspection by the Department, which is obligated to honor the request if there are reasonable grounds to believe a violation exists. A copy of the complaint will be furnished to the employer no later than the time of inspection, but the name of the complainant may be withheld at the complainant's request, at least until such time as the Department institutes enforcement proceedings. A person who fails to comply with the Act, or an enforcement order issued by the Department, is subject to civil money penalties, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

SEASONAL FARM LABOR ACT (SEASONAL FARM LABOR CAMPS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.301 - 1301.308

RELATED REGULATIONS: 7 Pa. Code Ch. 82

GENERAL SUMMARY: The Seasonal Farm Labor Act authorizes adoption of state regulations governing the operation of seasonal farm labor camps, defined briefly as living quarters (including any housing unit, motel, mobile home or other facility) maintained in connection with the work of seasonal farmworkers, or in connection with a place where work is being performed by such workers. As used here, the term "seasonal farmworker" refers largely to any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, or any person who lives in housing owned or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons.

SPECIFIC TERMS AND CONDITIONS

PERMITS — It is illegal for anyone who owns property or facilities to allow the occupancy, operation or use of such property or facilities as a seasonal farm labor camp without first obtaining a permit from the state to do so. Application for a permit must be made at least 60 days prior to occupancy. Permits are valid for one year from the beginning month of operation.

INSPECTION — The state enforcement agency will not issue or renew a permit until an inspection is completed and the agency finds that the camp meets or exceeds the standards applicable to such facilities, outlined below. The camp may also be inspected from time to time thereafter.

MINIMUM STANDARDS — To provide for safe, healthful and sanitary living conditions, the state agriculture department has adopted detailed standards with which seasonal farm labor camps must comply as a condition for occupancy and continued operation. A summary of key portions of those rules follows.

Housing Site — Each farm labor camp must be located on a site that is adequately drained and not likely to cause or become a threat to public health.

Construction — Structures must be soundly built and weatherproof. Screens are required on all exterior doors, windows and other outside openings.

Heating — If the camp is occupied before May 15 or after September 15 of any year, there must be space heating equipment capable of safely and adequately heating all habitable rooms, bathrooms and laundry rooms to 68 degrees F. Hot water must be supplied to all kitchens, sinks, showers, tubs and laundry fixtures.

Occupancy Limitations — There must be at least 100 square feet of floor space for each adult, and at least 50 square feet of space for each child under the age of 14, in units where occupants cook, live and sleep. In sleeping rooms shared by unrelated persons, the minimum floor space requirements are 50 square feet for adults and 25 square feet for children.

Sleeping Accommodations — Each occupant of the camp must be provided with a bed, bunk or cot, as well as a mattress and mattress cover, a pillow and pillow case, sheets and blankets. There must also be suitable storage facilities in the sleeping area.

Water Supply — The camp must have a sufficient supply of potable water to meet the needs of the occupants. Both the water itself and the water supply or distribution system must meet prescribed state standards. Hot and cold water under normal operating pressure must be available in kitchen and bathroom facilities.

Toilet Facilities — Sanitary toilet facilities, separated by sex and in prescribed minimum numbers, must be provided, except where the camp is composed entirely of family-type units, each with its own toilet facilities. In any case, toilets must be located within 200 feet of the door of each sleeping room, and no privy may be any closer than 100 feet to any sleeping room, kitchen or dining area. All toilet facilities must be adequately ventilated and maintained in proper operating condition.

Sewage Disposal — The camp's sewage disposal system must comply with specified standards and must be approved by state or local authorities.

Bathing Facilities — There must be at least one showerhead for every 10 camp residents, or one bathtub for every 6, as well as one wash basin per family unit or for every 6 occupants.

Laundry Facilities — The camp must provide at least one washing machine or one double laundry tray or 2 wash tubs for every 30 occupants. As an alternative to furnishing laundry equipment, the camp operator must provide residents with transportation at least once a week to a nearby laundromat.

Lighting and Electrical Facilities — Electricity is required at the camp, along with lighting fixtures and electrical outlets in prescribed minimum numbers.

Storage and Collection of Refuse — The camp operator is required to provide a sufficient number of leakproof garbage or trash containers. Trash must be collected at least once a week or whenever containers are full.

Cooking and Eating Facilities — Private kitchens must be equipped with a stove or hotplate, mechanical refrigeration capable of maintaining a temperature not more than 45 degrees F., adequate space for food storage and preparation, a table and chairs or equivalent accommodations, a sink with hot and cold running water under pressure, and adequate lighting and ventilation. Congregate cooking and eating areas must be comparably furnished.

Pest Control — The camp must have proper equipment, and the camp operator must take prescribed measures, to prevent or eliminate infestation of the premises by rodents, insects and other pests.

First Aid and Safety — Agricultural pesticides and toxic chemicals may not be stored in the housing area. To treat minor injuries and illness, there must be one first-aid kit, supplied as specified in the regulations, for every 50 camp occupants. Likewise, to respond to fire emergencies, there must be prescribed fire extinguishing equipment in kitchens and sleeping areas. Most living areas must be designed with multiple means of escape in case of fire. Buildings must be constructed, and heating and other equipment must be installed, in accordance with prescribed safety standards.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315). The Department is responsible for inspecting seasonal farm labor camps in the state and for issuing permits to those which meet minimum standards. Authorized agents of the Department may (1) enter public or private property to identify the facilities to which the Act applies, (2) inspect subject camps and all sites, accommodations and equipment associated with them, and (3) inspect adjoining lands, other than property used for the owner's personal use.

Any seasonal farmworker or representative of seasonal farmworkers who believes a farm labor camp is in violation of the Act may request an inspection by the Department; at the request of the complainant, the complainant's name may be kept confidential until such time as formal enforcement proceedings, if any, are brought against the camp owner. The Department may revoke a camp permit whenever the agency finds a violation of the Act or the associated regulations, or any condition which would be grounds for refusing to issue or renew a permit. In addition to loss of authority to operate the facility, anyone who violates the labor camp provisions is subject to civil penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SEASONAL FARM LABOR ACT (FARM LABOR CAMP ACCESS AND ENTRY)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.401 – 1301.403

GENERAL SUMMARY: In addition to authorizing substantive standards to assure safe and decent farmworker housing in the state, the Seasonal Farm Labor Act confers certain tenancy and access rights on residents and visitors at camps regulated under the Act.

SPECIFIC TERMS AND CONDITIONS

TENANCY RIGHTS — A seasonal farmworker who resides in any structure or property which is owned, leased or operated by an employer or farm labor contractor, and which is occupied for at least 6 months in a calendar year, has all the rights and recourse to law as if the worker were a tenant in possession. This includes, among other protections, the right to 3 days' notice prior to eviction, or 2 weeks' notice if the worker lives on the property with one or more dependents. Tenancy rights apply for as long as the worker resides at the facility, whether or not rent is charged.

ACCESS RIGHTS — It is illegal for anyone to deny or limit entry to or egress from the premises of a seasonal farm labor camp by any of the following persons:

- (1) A guest of an occupant of the camp.
- (2) A person working under the auspices of a private organization whose primary interest in entering the premises is the health, safety, welfare or dignity of seasonal farmworkers.
- (3) A representative of a federal, state or local government agency who, if requested, presents proper identification to the owner of the camp and whose agency has notified the owner at some time during the current season concerning the agency's purpose and the identity of its agent or agents.
- (4) An individual, group or public agency whose primary purpose is to provide a service to the owner of the camp rather than to the camp's occupants.

Reasonable access by such persons to the grounds of a labor camp may not be prohibited, interfered with or limited in any way, whether by erecting or maintaining a physical barrier, by using physical force or violence, by posting a written notice, or by issuing a verbal order.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315). Any resident of a farm labor camp who has been unlawfully evicted or denied visitation by a guest or other authorized visitor, or any authorized person who has been denied entry to a camp, may file a complaint with the Department, which may take civil and criminal action against the camp owner if a violation of the tenancy and access provisions is confirmed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 751 – 919.10

GENERAL SUMMARY: The Unemployment Compensation Law compels both employers and employees in most lines of work in Pennsylvania to pay contributions to the state unemployment compensation fund, in rough proportion to the amount of wages they pay or receive, as the case may be. Individuals who are temporarily out of work, who have sufficient wage credits from covered employment, and who meet other eligibility requirements are entitled under the law to weekly cash payments from the state fund.

With some exceptions, employers are required to pay unemployment contributions if they pay wages to even one employee during the calendar year. Likewise, most workers employed by an employer who is not otherwise exempt from paying UI taxes must themselves contribute to the fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay contributions to the state unemployment compensation fund. The amount of contributions for which an employer is liable is generally equal to the total amount of wages paid during the calendar year (up to a 2017 wage limit of \$9,750 per worker) multiplied by the employer's unemployment insurance tax rate, which is determined annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

WORKER CONTRIBUTIONS — Each employee of a subject employer is currently required to contribute 0.07 percent of his or her wages to the unemployment compensation fund, without regard to the annual wage limit applicable to employers. Workers' contributions must be withheld from earnings by the employer, who is responsible for reporting and forwarding withheld amounts to the state.

ELIGIBILITY FOR BENEFITS — Unemployment compensation is generally payable to any worker who (1) has registered for job search services and conducts a weekly job search, (2) has made a valid application for benefits and a claim for compensation, (3) is able to work and available for suitable work, (4) has been unemployed for a waiting period of one week, (5) has earned at least 16 times the state hourly minimum wage (\$116 at the current minimum wage of \$7.25) from UI-covered employment in each of 18 or more weeks during the first four of the last five completed calendar quarters immediately preceding application for benefits, and (6) earned at least 37 percent of total wages outside the one quarter when wages were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is defined as either (1) 50 percent of the claimant's full-time weekly wage, or (2) the compensation rate corresponding to the claimant's high-quarter earnings, as specified in the statutorily prescribed benefit tables, whichever of the two sums is greater. With respect to a week of only partial unemployment, the amount of the UI payment is generally equal to the weekly benefit amount, minus that portion of the week's part-time earnings in excess of (1) \$6, or (2) 30 percent of the weekly benefit amount, whichever is greater.

DEPENDENTS' ALLOWANCE — In addition to the worker's regular benefits, for each week of unemployment a claimant is also entitled to \$5 for a dependent spouse or child, plus \$3 for a second dependent.

SEASONAL WORKER PROVISIONS — Wages paid to a worker by certain employers engaged in seasonal operations in a seasonal industry generally may not be counted in computing the worker's eligibility for unemployment compensation, or the amount of such benefits, for any week of unemployment occurring outside the normal seasonal period of operation for that industry. The special rules of eligibility apply only to workers performing seasonal services in connection with commercial canning or commercial freezing of fruits and vegetables, and may be applied only to wages paid by an employer formally determined by the state agency to have a seasonal canning or freezing operation. Each such employer must conspicuously display notices at the workplace advising employees of the seasonal determination and of the estimated beginning and ending dates of its normal seasonal period.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Unemployment Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-3907). The Department is responsible for (1) determining the liability of employers for payment of unemployment insurance contributions and collecting contributions from subject employers, (2) for determining eligibility of workers for UI benefits and paying benefits to eligible workers, and (3) for resolving tax and benefit appeals lodged by employers and workers. The Department also enforces the withholding of UI contributions from employees, and hence may investigate any complaint by a worker alleging that withheld UI contributions are not being properly reported or remitted to the state by the employer. Workers who have UI-related questions may call the Department toll-free, at 888-313-7284; applications for unemployment compensation may be downloaded and filed by mail, but the recommended method is to file a claim online, at www.uc.pa.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATUTORY CITATION: 77 Pa. Stat. §§ 1 - 2708

GENERAL SUMMARY: The Workers' Compensation Act makes most employers in the state — regardless of payroll volume or number of employees — liable for the payment of compensation in the event an employee is accidentally injured, or dies as a result of an accidental injury, in the course of employment. Workers injured on the job are entitled to reasonable medical and surgical services, medicines and supplies, at the employer's expense, and if injury leads to the disablement or death of the worker, the employer is responsible for payment of cash benefits to the worker or the worker's dependents to compensate for lost wages.

To meet liability under the Act, an employer must purchase workers' compensation insurance, either through the State Workers' Insurance Fund or through a commercial insurance carrier, or, with proof of financial ability to pay compensation directly, may apply to the state for an annual insurance exemption. Employers who insure their liability for compensation generally are protected from further liability for work-related injury to their employees, and the workers are assured prompt medical attention and monetary compensation without need of litigation. On the other hand, an employer who fails to comply may be sued for damages by an injured employee and forfeits the right to claim as a defense that the injury was caused by the negligence of a co-worker or by the worker's own negligence, or that the worker had assumed the risk that led to the injury. Moreover, non-complying employers are subject to criminal fines and imprisonment.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment which (1) pays wages of \$1,200 or more to any one worker during the calendar year for agricultural labor, or (2) employs any one worker for 30 or more days of farm labor during the year, must provide workers' compensation coverage for all the establishment's employees.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — A farm operator or other agricultural establishment subject to the Workers' Compensation Act that uses the services of workers hired by a farm labor contractor to perform labor on the establishment's premises is liable for compensation if such a worker is injured in the course of the job, unless the contractor is liable for compensation and has already secured coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383). It is the Department's duty to enforce employer compliance with the obligation to secure workers' compensation insurance or obtain an exemption permit, and to assure prompt processing of injury cases and payment of compensation by employers and insurers. In general, notice of the occurrence of a worker's injury must be given to the employer within 120 days after the date of injury, or no compensation is allowed. The Department may respond to a petition by an employee or an employee's dependents requesting a hearing and determination in any case in which compensation has been denied or has not been paid in accordance with prescribed time standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O PENNSYLVANIA OCCUPATIONAL DISEASE ACT

STATUTORY CITATION: 77 Pa. Stat. §§ 1201 - 1209

GENERAL SUMMARY: The Pennsylvania Occupational Disease Act requires most employers in the state to insure their workers against disablement or death caused by occupational disease resulting from employment. Unless exempted by the state administering agency as having sufficient financial ability to cover claims directly, subject employers must purchase occupational disease compensation insurance from the State Workers' Insurance Fund or from a commercial insurance carrier, to meet the cost of medical treatment and regular cash benefits to the worker or the worker's dependents for continuing disability or death. Employers who fail to comply with the obligation to insure are faced with criminal fines, imprisonment, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: The Occupational Disease Act **does not apply** to persons performing agricultural services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

■ SEASONAL FARM LABOR ACT (FARM LABOR CONTRACTOR REGISTRATION)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.501 - 1301.506

RELATED REGULATIONS: 34 Pa. Code §§ 31.51 – 31.58

GENERAL SUMMARY: The Seasonal Farm Labor Act includes provisions regulating the operation of farm labor contractors in Pennsylvania, by requiring that contractors register each year with the state and observe certain limitations on their business activities. In brief, the Act defines a farm labor contractor as any person who, for compensation, recruits, solicits, hires, furnishes or transports 5 or more seasonal farmworkers in any calendar year for employment in agriculture or in an agriculture-related industry.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — No one may act as a farm labor contractor unless he or she possesses or has applied for a certificate of registration from the state. Similarly, individuals who are employed by and act as agents of a registered farm labor contractor must carry identification indicating their status as contractor agents and are subject to the Act and its associated regulations to the same extent as if they were registered contractors.

RECORDKEEPING — Every farm labor contractor must make and preserve prescribed payroll records on each worker recruited, employed or supervised, including such data as the worker's name and Social Security number, total wages earned, the number of hours worked, and hourly or piecework wage rates.

PROHIBITED ACTIVITIES — Among other prohibitions enumerated in the Act, it is forbidden for anyone engaged in activities as a farm labor contractor:

- (1) To knowingly give a seasonal farmworker or prospective farmworker any false or misleading information, or fail to fully disclose pertinent information, concerning the availability of work, wages, any arrangements for the furnishing of meals, housing and transportation, or other terms of employment, in order to induce the worker to accept or reject a job offer.
- (2) To receive, disburse or withhold any wages or other compensation for the services of a worker except in conformity with the Act's wage payment provisions (see entry, Pennsylvania Wages & Hours Wage Payment and Collection).
- (3) To charge or collect from a worker any money or other thing of value for goods or services provided by the contractor, except (a) a reasonable charge for transportation of the worker, the worker's family and their possessions between the place of residence or recruitment and a job site, or from one job site to another, and (b) a reasonable charge for meals during the term of employment or during travel periods.
- (4) To fail to correctly disclose to the worker, at the time of recruitment or negotiation of any contract, the reasonable charges for transportation and meals.
- (5) To sell or dispense any alcoholic beverage without a state license or permit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). In addition to administering the farm labor contractor registration process, the Department is responsible for monitoring contractors' compliance with the restrictions imposed on their conduct. In response to a complaint or other evidence of a violation of the Act, the Department may enter public or private property, inspect records, question any person, and take other investigatory action necessary to determine if a violation has, in fact, occurred. Contractors who fail to comply with any provision of the Act or the associated rules may have their registration certificate suspended or revoked and are also subject to criminal action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

O PENNSYLVANIA LABOR RELATIONS ACT

STATUTORY CITATION: 43 Pa. Stat. §§ 211.1 - 211.13

GENERAL SUMMARY: The Pennsylvania Labor Relations Act guarantees the right of most employees in the state to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. The Act forbids employers and labor organizations from engaging in certain specified unfair labor practices and sets up an administrative framework for resolving unfair labor practice charges lodged by workers, labor organizations and employers, and for conducting state-supervised elections to settle questions of representation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Pennsylvania Labor Relations Act **does not apply** to individuals employed as agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pennsylvania Labor Relations Board, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973

STATUTORY CITATION: 3 Pa. Stat. §§ 111.21 - 112

RELATED REGULATIONS: 7 Pa. Code Ch. 128

GENERAL SUMMARY: Among other matters, the Pennsylvania Pesticide Control Act regulates the application and disposal of pesticides in the state, in part by requiring the licensing of pesticide application businesses, the registration of their employees, and the certification of certain private applicators. The Act also authorizes the state administering agency to adopt specific procedural controls over the use of pesticides, in the interest of individual and community-wide safety.

SPECIFIC TERMS AND CONDITIONS

LICENSING OF BUSINESSES — Every individual, firm or other entity in the business of applying pesticides commercially must have a license, issued by the state, specifying the categories of pesticide use in which the business may engage. Among other prerequisites to licensing, the applicant must furnish evidence of financial responsibility, in the form of a surety bond, liability insurance or comparable security. Likewise, an applicant must at all times have in its employ a certified applicator, an individual who has been examined by the state agency and found knowledgeable and competent in such areas as (1) identification of target pests, (2) appropriate pest control measures, (3) pesticide hazards, (4) proper use of application equipment, (5) protective clothing and devices, (6) precautions in cleaning and maintaining equipment, (7) transportation, storage and disposal of pesticides, and (8) applicable federal and state pesticide laws and regulations.

REGISTRATION OF TECHNICIANS — Non-certified employees of any business engaged in applying pesticides to someone else's property may apply pesticides only under the direct supervision of a certified applicator. Such employees must be formally registered as application technicians if they use pesticides where a certified applicator is not physically present on the site. Moreover, application technicians must annually undergo training in pest identification, proper use of pesticides, use and maintenance of equipment, use of protective gear, pesticide transportation and disposal, and state and federal pesticide regulations.

CERTIFICATION OF PRIVATE APPLICATORS — No one, including most farm operators, may use any restricted-use pesticide without first being certified by the state as a private applicator. Certification requires, among other conditions, passing a written examination covering product labeling, safety and health, environmental protection, pests, pesticides, integrated pest management, equipment, application techniques, and laws and regulations.

RECORDKEEPING — Licensed application businesses and private applicators are required to keep a complete and accurate record of each pesticide application they perform. The record must include such information as the date of application, the location and size of the area treated, the pesticide product used, and the amount and dosage applied.

PRIOR NOTIFICATIONS — Commercial applicators planning to apply a restricted-use pesticide for an agricultural purpose generally must either (1) publish a notice of the proposed application in two general-circulation newspapers in the affected area, (2) individually notify people living adjacent to the treatment area at least 18 hours prior to the application, or (3) post signs of prescribed size and content at entry points and along property borders at least 18 hours prior to the application. Signs must remain posted until the expiration of any restricted-entry period specified on the pesticide label.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Health and Safety, Bureau of Plant Industry, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-772-5214). This agency is responsible for the licensing and certification of pesticide applicators in the state, and for assuring compliance with the limitations and duties applicable to their operations. Representatives of the Department may enter public or private property in order to sample pesticides, examine pesticide equipment, inspect lands exposed to pesticides, inspect storage and disposal areas, and investigate specific complaints of injury to humans or land. In addition to suspension and revocation of licensing and certification, the Department's enforcement tools include the power to assess civil money penalties and to initiate court action to restrain violations. The Act also prescribes criminal penalties for most such infractions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

STATUTORY CITATION: 35 Pa. Stat. §§ 7301 - 7320

GENERAL SUMMARY: Apart from protective provisions applicable to the public at large, the Worker and Community Right-to-Know Act grants employees the right to receive certain information from their employers regarding chemicals used in the workplace and health hazards posed by the use of or exposure to hazardous substances on the job. The Act further requires employers to conduct educational programs for those employees who may be exposed to such substances in their normal work area. These provisions generally apply to all workers in Pennsylvania except domestic and casual laborers employed at the employer's residence.

SPECIFIC TERMS AND CONDITIONS

POSTING — Every employer must post, at a location to which workers normally have free access during the course of a normal day's work, (1) a list of all hazardous substances found in the workplace, and (2) a notification advising the workers of their entitlement to written information on such substances and their other rights under the Act.

AVAILABILITY OF INFORMATION — Within 5 days of receipt of a written request for such information from a worker or a worker's representative, an employer must furnish a material safety data sheet or hazardous substance fact sheet for any hazardous substance or hazardous mixture present in any of the employer's workplaces. If the requested information is in the employer's possession and the employer fails to respond to the request within the prescribed timeframe, the worker has the right to refuse to work with the hazardous substance involved, without penalty, until the information is provided.

DESCRIPTION OF INFORMATION — A material safety data sheet is a document prepared by the manufacturer or supplier which contains such information as (1) the chemical, trade and common names of the product, (2) its chemical and physical properties, (3) the health and safety hazards posed by the substance, (4) the permissible exposure levels and signs of overexposure, (5) the potential routes of exposure, (6) emergency first-aid procedures, and (7) the personal protective equipment to be worn and other precautions to be followed. A hazardous substance fact sheet, on the other hand, is a document prepared by the state enforcement agency to transmit information about a hazardous substance to employers, employees or members of the general public.

EDUCATIONAL PROGRAM — At least once a year, employers must provide an education and training program for employees exposed to hazardous substances or hazardous mixtures in their normal work area. The program may be in written or oral form, but in either case must cover such topics as the location of each hazardous material in the workplace, its properties, its chemical and common names, its acute and chronic effects, the symptoms of overexposure, appropriate personal protective equipment, conditions for safe use, appropriate emergency treatment, and emergency procedures for dealing with spills and other accidents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Health and Safety Division, Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-772-1635).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

■ SEASONAL FARM LABOR ACT (TRANSPORTATION OF WORKERS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.101 – 1301.606

RELATED REGULATIONS: 34 Pa. Code §§ 31.11 – 31.31

GENERAL SUMMARY: Among numerous other provisions, the Seasonal Farm Labor Act gives the state labor secretary broad authority to issue and enforce administrative rules to improve working conditions for seasonal farmworkers in Pennsylvania. Using that authority, the secretary has adopted detailed rules regulating motor vehicles used to transport farmworkers, imposing standards for the safe operation of such vehicles, and prescribing qualifications for individuals driving them.

The rules apply to any individual or business that uses a motor vehicle (other than a passenger car or station wagon) to transport 3 or more seasonal farmworkers at any one time to or from their farm employment, provided the workers (1) are not year-round employees, and (2) occupy living quarters other than their permanent home.

SPECIFIC TERMS AND CONDITIONS: Among the key requirements spelled out in the administrative regulations are the following:

DRIVER QUALIFICATIONS — To lawfully transport seasonal farmworkers, as defined in brief above, the driver must be at least 21 years of age, must have at least one year's driving experience through all four seasons, and must be able to read and speak English sufficiently to understand highway traffic signs and respond to directions or official inquiries. The driver must possess a valid license or permit authorizing operation of the type of vehicle being used to transport workers.

Likewise, no individual may drive a vehicle used to transport farmworkers unless the individual meets the qualifications listed in the regulations. Among others, these include (1) no loss of a foot, leg, hand or arm, (2) at least 20/40 eyesight in each eye, with or without corrective lenses, (3) ability to distinguish red, green and yellow colors, and (4) no mental, nervous or functional disease that would interfere with safe driving. At least once every 36 months, the driver must submit to a physical examination by a licensed doctor and be found in compliance with all of the state-prescribed standards, as evidenced by the doctor's issuance of a written certificate to that effect. The driver is required to carry the certificate at all times while operating a farmworker transport vehicle.

VEHICLE EQUIPMENT — Every vehicle used to transport workers must be equipped with parts, accessories and devices that meet prescribed standards and are in good working order. These include seats, exits, lighting devices and reflectors, brakes, coupling devices, tires, horn, windshield wipers, rear-view mirrors, heaters, fire extinguisher, and road warning devices. Engine fuel may not be carried in or on the vehicle except in a properly mounted tank, and all doors, tailgates, tarps and other such equipment must be securely in place before the vehicle is driven.

PASSENGER HEALTH AND SAFETY — Carriers must provide a reasonable rest stop at least once between meal stops. Meal stops are required no less frequently than every 6 hours, and each meal period must be at least 30 minutes' duration. For trips in excess of 600 miles in a truck, the vehicle must be stopped for a period of at least 8 consecutive hours before or upon completion of 600 miles' travel. Passengers must be protected from inclement weather conditions such as rain, snow or sleet. Drivers must observe strict rules regarding fire safety.

MAXIMUM DRIVING TIME — No one may drive for more than 10 hours (aggregate time) in any period of 24 consecutive hours, excluding rest and meal stops. Once a driver reaches the 10-hour limit, he or she must be afforded 8 consecutive hours' rest before being allowed to drive again.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

O MINIMUM WAGE ACT OF 1968

STATUTORY CITATION: 43 Pa. Stat. §§ 333.101 – 333.115

GENERAL SUMMARY: The Minimum Wage Act establishes a statewide hourly minimum wage of \$7.15, but provides that whenever the federal minimum wage is increased above that level, the federal rate will prevail, effectively setting the current state minimum wage at \$7.25 per hour.

The Act requires subject employers to keep an accurate record of the hours worked by and wages paid to each employee, and to post a summary of the Act and the associated regulations in a conspicuous location at the workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's minimum wage provisions do not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SEASONAL FARM LABOR ACT (WAGES AND HOURS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.201 - 1301.207

GENERAL SUMMARY: Under the Seasonal Farm Labor Act, seasonal farmworkers are entitled to be compensated at pay rates no less than the state hourly wage floor established by the Minimum Wage Act of 1968 (see preceding entry), and their employers must observe corresponding recordkeeping duties. As used here, the term "seasonal farmworker" generally means an individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

MINIMUM WAGE — Every employer of seasonal farmworkers, as described above, must pay each such worker at least \$7.25 for every hour of labor. In any given workweek, the earnings of each worker paid on a piece-rate basis must amount to no less than \$7.25 multiplied by the number of hours the worker was employed during such week. The minimum wage applies to minors to the same extent as adult workers, and piecework-paid minors must be compensated at the same piece rate applicable to adults performing the same operation.

RECORDKEEPING — Every employer of seasonal farm labor is required to maintain a record on each worker employed, to include, among other information, the worker's name and Social Security number, total wages earned, hours worked, and the hourly or piecework wage rate.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Agents of the Department are authorized to inspect payroll records at any place of employment, or at any establishment maintained by an employer or farm labor contractor, in order to ascertain compliance with the minimum wage provisions of the Seasonal Farm Labor Act. A worker who has not received pay in accordance with these provisions may file a complaint with the Department, and if the claim is determined valid, the agency may take legal action on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM WAGE ACT OF 1968 (HOURS AND OVERTIME)

STATUTORY CITATION: 43 Pa. Stat. §§ 333.101 – 333.115

GENERAL SUMMARY: The Minimum Wage Act, aside from establishing an hourly wage floor, requires subject employers to compensate each employee at a rate no less than 11/2 times the worker's regular hourly wage for overtime in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's overtime provisions do not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

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SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SEASONAL FARM LABOR ACT (HOURS OF LABOR)

STATUTORY CITATION: 43 Pa. Stat. § 1301.207

GENERAL SUMMARY: The wage and hour provisions of the Seasonal Farm Labor Act contain limitations on the working hours of seasonal farmworkers and guarantee such workers a right to meal or rest periods. The term "seasonal farmworker" includes any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

GENERAL SUMMARY: The wage and hour provisions of the Seasonal Farm Labor Act contain limitations on the working hours of seasonal farmworkers and guarantee such workers a right to meal or rest periods. The term "seasonal farmworker" includes any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

MAXIMUM HOURS — No seasonal farmworker may be compelled to work, or penalized for failing to work, for more than 6 days or more than 48 hours in any one week, or for more than 10 hours in any one day. Where a worker is employed by more than one employer on any day or in any week, the aggregate number of hours during which the individual may be required to work may not exceed 48 hours in any one week or 10 hours in any one day.

MEAL OR REST PERIODS — An employer of seasonal farm labor is prohibited from requiring a worker to work for more than 5 continuous hours without a meal or rest period of at least 30 minutes. No time span of less than a half-hour is deemed to interrupt a continuous period of work. The meal or rest break need not be treated by the employer as compensable work time.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). A person who has been compelled by a farm operator or other seasonal agricultural employer to work more than the prescribed maximum hours, who has been penalized for refusing to do so, or who has been denied a meal or rest period in violation of the Act, may file a complaint with the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 260.1 – 260.12

GENERAL SUMMARY: The Wage Payment and Collection Law generally governs the compensation of employees in Pennsylvania, regulating paydays, disclosure of payment conditions, and payment of wages at termination. These provisions apply to all employment in the state, both agricultural and non-agricultural.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Except for wage supplements, every employer must pay the compensation earned by each employee on regular paydays designated in advance by the employer. Unless specified otherwise in a written employment contract, compensation is generally due and payable within 15 days of the end of the pay period in which it is earned. Bonuses or other wage supplements must be paid within 10 days after the end of the job or other due-date, or within 60 days of demand by the worker where no required time for payment was specified. Wages must be paid in lawful U.S. money or by check.

NOTIFICATION — It is every employer's duty to notify each worker at the time of hiring as to the time and place of payment, the rate of pay, and any fringe benefits or wage supplements to be paid. Workers are also entitled to advance notice of any change in these conditions. Such notifications may be provided by posting the required information at the employer's place of business.

FINAL WAGES — Upon termination of employment, for whatever reason, workers' final wages are due and payable no later than the next regular payday on which such earnings would otherwise be paid.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). The Department may investigate any complaint alleging a violation of the Wage Payment and Collection Law, and for that purpose agents of the Department may inspect payroll and related records and interview employees at any workplace in the state. Workers and their representatives may request the Department to take legal action on their behalf to collect any claim for unpaid wages, provided action is instituted within 3 years after such wages were originally payable. Apart from civil liability, employers who violate these provisions are also subject to criminal fines and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a claim with the Department of Labor and Industry, a worker who has not been paid any portion of his or her earnings may engage a private lawyer or public legal service provider to bring civil action against the employer directly for recovery of the unpaid amount. Furthermore, where wages remain unpaid without good cause for 30 days beyond the regular payday (or 60 days beyond the date of demand, where no regular payday applies), or where shortages in wage payments exceed 5 percent of gross wages payable on any two regular paydays in the same calendar quarter, the employer is generally liable to the worker for an additional amount as liquidated damages equal to 25 percent of the unpaid wages, or \$500, whichever is greater. A judgment in the worker's favor may also include attorney's fees.

MISCELLANEOUS LABOR LAWS (SEMI-MONTHLY PAYMENT OF WAGES)

STATUTORY CITATION: 43 Pa. Stat. §§ 251 - 253

GENERAL SUMMARY: Unless a different wage payment schedule is specified in the contract of hire, employers in Pennsylvania must pay their employees (other than those paid an annual salary) no less frequently than semi-monthly. The first payment must occur between the 1st and the 15th day of each month, the second between the 1st and the last day.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to the wages of all wage earners.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Violations of the semi-monthly wage payment provision may be reported to the Department, which has authority to bring charges against violators in the local courts. Conviction may lead to a fine of up to \$100 for each offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

SEASONAL FARM LABOR ACT (WAGE PAYMENTS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.201 – 1301.207

GENERAL SUMMARY: The wage and hour provisions of the Seasonal Farm Labor Act regulate, among other matters, wage payment procedures for seasonal farm labor. The term "seasonal farmworker" includes any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Notwithstanding contrary provisions in the Wage Payment and Collection Act, every employer of seasonal farm labor must pay the wages of such workers on regular paydays designated in advance by the employer, but in no case more than 7 days after the end of the calendar week in which the wages were earned. Lawful U.S. currency or check are the only allowable means of payment.

FINAL WAGES — All unpaid earnings must be paid in full by the end of the next business day following termination of each job for which a seasonal farmworker was hired.

DEDUCTIONS FROM WAGES — Employers of seasonal farm labor are permitted to deduct or withhold from a worker's wages only (1) payroll-related taxes required to be deducted or withheld under state or federal law, (2) authorized union dues, (3) payments for employee benefits approved in writing by the worker, (4) reasonable charges for housing and meals provided by the employer, and (5) amounts for repayment of advances by the employer pursuant to a contract or prior agreement with the worker.

PAY STATEMENTS — At the time of payment, employers must provide each seasonal farmworker with a written statement showing the hourly or piecework wage rate, the number of hours worked, the units of work performed (if applicable), the amount of gross compensation, and any amounts deducted or withheld for any purpose whatever.

WAGE PAYMENT THROUGH A LABOR CONTRACTOR — An employer of seasonal farm labor may not permit a farm labor contractor to act as the employer's agent in the payment of wages unless the employer furnishes to each worker, and posts at an accessible location at the workplace, a statement showing the wage rates to be paid and other terms of employment agreed upon prior to hiring. Provided this condition is met, the employer may utilize a contractor as an agent for wage payment purposes, and the contractor becomes responsible for complying with the requirements outlined above.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Any seasonal farmworker who does not receive compensation in accordance with these provisions may file a complaint with the Department. If investigation of the complaint confirms a violation, the Department has authority to take action against the employer or labor contractor involved to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TAX REFORM CODE OF 1971 (PERSONAL INCOME TAX)

STATUTORY CITATION: 72 Pa. Stat. §§ 7301 - 7361

GENERAL SUMMARY: Article III of the Tax Reform Code imposes a tax on certain classes of personal income, including (1) compensation paid to Pennsylvania residents for services performed both within and outside the state of Pennsylvania, and (2) compensation paid to non-residents of Pennsylvania for services performed within Pennsylvania.

In general, every employer who maintains an office or transacts business in the state and who pays compensation to any worker is required to deduct and withhold from the worker's pay an amount estimated to meet the worker's state income tax liability with respect to such earnings. The employer must periodically remit withheld taxes and submit a withholding return to the state revenue department, and by January 31 of the ensuing year must furnish each employee with a written statement showing the amount of compensation paid and the amount withheld as tax throughout the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: With only narrow exceptions, agricultural employers in Pennsylvania are required to withhold state income tax from their workers' wages to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Business Trust Fund Taxes, Pennsylvania Department of Revenue, Harrisburg, Pennsylvania 17128 (717-787-1064). Any worker who has reason to believe that state income tax is being improperly withheld from wages, or incorrectly reported or remitted to the state, should promptly contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

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Puerto Rico

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 431 – 456

RELATED REGULATIONS: Regulation 230

GENERAL SUMMARY: Puerto Rico's child labor laws limit the working hours and occupations of persons under 18 years of age, prohibit the employment of minors in certain injurious occupations, prescribe the use of employment certificates as a means of regulating the use of child labor in most trades and industries, and grant minors the right to on-the-job lunch periods.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND HOUR LIMITATIONS —

Children Under Age 14 — With few exceptions, minors under the age of 14 may not be employed in agriculture or any other industry at any time.

Children Age 14 and 15 — Minors 14 and 15 years of age are forbidden to work in any gainful occupation during the hours in which the public schools are in session. Outside school hours and during school vacations, 14- and 15-year-olds may be employed in agriculture and most other industries for up to 6 consecutive days and up to 40 hours in any one week, and for up to 8 hours in any one day. Employment is not authorized before 8:00 a.m. or after 6:00 p.m. On any school day, the combined hours of class time and employment, if any, may not exceed 8 hours.

Children Age 16 and 17 — In agriculture as in most other sectors, no minor 16 or 17 years of age may work before 6:00 a.m. or after 10:00 p.m., and those attending school and working after class on school days are limited to a combined total of 8 hours of school and work time.

INJURIOUS OCCUPATIONS — It is generally unlawful to employ minors, or allow minors to work, in an occupation deemed by the enforcement agency to be dangerous or injurious to their life, health, education, safety or welfare. Among other agriculturally related activities, no one under the age of 18 may be employed to cut sugarcane, to operate power-driven mowers, to drive or assist in driving a tractor or other vehicle, or to perform work at a height of more than 5 feet, or in a job requiring the use or handling of pesticides and similar agricultural chemicals. Similarly, minors under 16 years of age may not be employed in the cutting, lashing or binding of tobacco, in irrigating with chemicals, in spraying chemical fertilizers, or in weeding operations.

EMPLOYMENT CERTIFICATES — Except in the harvest of coffee, minors 14 through 17 years of age (inclusive) generally may not be employed or permitted to work in agricultural and most other gainful occupations unless the employer obtains and keeps on file an employment certificate from the enforcement agency, and conspicuously posts at the workplace a list of all minors employed at his or her establishment. Minors hired to pick coffee must carry and present to the employer a card, issued by the department in lieu of an employment certificate, indicating that the child is at least 14 years old and in sound physical condition.

LUNCH PERIODS — No minor may be employed for more than 4 consecutive hours without being allowed at least one hour for lunch.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). It is the duty of this agency to determine the eligibility of minors for employment and to issue certificates to those applicants who meet the minimum age and other requirements for the prospective job. To determine employer compliance with the child labor laws, agents of the Department may enter any workplace in Puerto Rico for the purpose of examining employment and age certificates and inspecting other personnel records. Violation of these provisions is classified as a misdemeanor, punishable by fine or imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: 3 Laws P.R. Ann. § 143b

GENERAL SUMMARY: With only narrow exceptions, all children between the ages of 5 and 18 must be enrolled in a public school located within a reasonable distance of their homes.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to every minor in the affected age bracket regardless of the occupational classification or employment status of the child or the child's parent or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance law is enforced at the local level by teachers, supervising principals and social workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CHILD LABOR LAWS (COMPULSORY SCHOOL ATTENDANCE)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 450 - 456

GENERAL SUMMARY: Every parent or other person having charge of a minor under 16 years of age must assure the child's regular attendance at a public or private school during regular school hours and for the entire length of the public school term, unless the child is found to be mentally unfit to attend and is excused by the school supervisor.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to all minors under 16, regardless of the employment status or occupation of the minor or the child's parent or custodian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Local school officials are obligated to report to the Department the name of any enrolled minor under the age of 16 who has been absent from school for a week during any school month for the purpose of employment. If the child is unlawfully absent again after a written notice requiring attendance, legal action may be taken against the child's parent or guardian. Failing to cause a child to regularly attend, or inducing a child not to attend, in contravention of these provisions may result in a fine of up to \$50.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT (RIGHTS OF MINORS)

STATUTORY CITATION: 11 Laws P.R. Ann. § 3(g)

GENERAL SUMMARY: In the case of a worker under 18 years of age who is employed in violation of the child labor laws and who suffers a compensable injury or contracts a compensable occupational disease, the Compensation System for Work-Related Accidents Act requires the payment of double the amount of compensation payable to a worker legally employed under otherwise identical circumstances. Furthermore, the employer rather than the State Insurance Fund is responsible for paying the additional compensation, the amount of which constitutes a lien against the employer's property.

PROVISIONS APPLICABLE TO AGRICULTURE: Minors unlawfully employed in agriculture at the time of an on-the-job injury are entitled to double compensation under this provision, on the same terms as similarly situated workers in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). Irrespective of the legality of the employment under the child labor laws, injury to a minor while employed should be reported to the employer, who is responsible for appropriate medical treatment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545).* In response to an appeal, the Industrial Commission is authorized to review any decision by the State Insurance Fund which adversely affects a workers' compensation claimant.

CIVIL RIGHTS

EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 146 – 151

GENERAL SUMMARY: Chapter 7 of the Puerto Rico labor laws contains provisions outlawing certain forms of discrimination in employment, applicable to all trades and industries without exception.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT DECISIONS — It is illegal for any employer to use a person's age, race, color, sex, social or national origin, social condition, political affiliation, or political or religious ideology as the basis for (1) refusing to hire or rehire the person, (2) discharging or laying off the person, (3) discriminating against the person regarding salary, wages, or the terms, rank, conditions or privileges of work, or (4) limiting or classifying the person in a way that tends to deprive the person of opportunities or affect his or her employment status. Employment discrimination against a person for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking is similarly illegal.

ADVERTISING OR SOLICITATIONS — Employers and labor organizations are generally prohibited from publishing or circulating any announcement denying employment opportunities on grounds of age, race, color, sex, social or national origin, social condition, political affiliation, political or religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking.

POSTING — Every employer and labor union must post a summary of the anti-discrimination provisions in a conspicuous location at the workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Antidiscrimination Unit, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). In response to a complaint, the Department is authorized to investigate possible violations of the employment discrimination law. Representatives of the Department may inspect all records, documents and files maintained by an employer or labor organization relative to any such investigation, and the agency may hold hearings and take testimony as part of the fact-finding process. Violators are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker may take legal action against an employer for an act of employment discrimination by filing a civil suit, using counsel of the worker's own choosing. In a judgment in the plaintiff's favor, the employer is generally liable for a sum equal to twice the amount of actual damages sustained, plus court costs and attorney's fees. The court may also order the worker's reinstatement on the job or other equitable relief.

SEX DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 1321 - 1341

GENERAL SUMMARY: Chapter 75 of the labor statutes guarantees the equal right of men and women to employment, and prohibits certain unfair employment practices which infringe on that right. These provisions apply to agricultural and non-agricultural employment without distinction.

SPECIFIC TERMS AND CONDITIONS: In general, it is unlawful for an employer:

- (1) To suspend, dismiss or refuse to hire a person, or to discriminate against a person with respect to wages, employment terms or working conditions, on account of the person's sex.
- (2) To limit, segregate or classify employees or job applicants in any way that could deprive anyone of a job opportunity, or adversely affect employment status, on account of the individual's sex.
- (3) To include in a notice or advertisement of a job opening any preference, limitation or specification with respect to sex, unless sex is a bona fide occupational requirement.
- (4) To offer or provide fringe benefits to employees of one sex (or to their spouses and dependents) under conditions different from those applicable to fringe benefits offered or provided to employees of the opposite sex (or to their spouses and dependents).

Comparable acts by employment agencies and labor unions are also illegal.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Antidiscrimination Unit, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any person who has been subjected to prohibited employment discrimination based on sex may file a complaint with the Department. Acting on such a complaint, or on its own initiative, the Department may inspect personnel records, interview employees, and take other investigatory action at any place of employment, and may hold related hearings. An order against an employer found to have committed sex discrimination in employment may be enforced by the Department through petition to superior court. Violation of these provisions is also deemed a criminal misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A worker aggrieved by unlawful sex discrimination related to employment may bring suit against the offending party in court, for recovery of damages and other appropriate relief. Anyone found in violation is generally liable to the worker in an amount equal to twice the dollar-value of damages actually suffered, plus court costs and attorney's fees.

WAGE PAYMENT LAWS (UNLAWFUL WAGE AND HOUSING RESTRICTIONS)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 171 - 179

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, contains prohibitions against employer interference with certain worker rights.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer to directly or indirectly impose any condition on where or how workers may spend their wages, or to dismiss workers for having spent their pay at a certain place, in a certain way, or with a specified person.

Likewise, employers may not compel their employees to reside on the employer's property.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). A worker who is aggrieved by an alleged violation of these provisions may file a complaint with the Department, which is obliged to investigate and attempt to resolve the matter to the worker's satisfaction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT LAWS (DISCHARGE WITHOUT GOOD CAUSE)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 185a – 185m

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, contains prohibitions against unjustified dismissal of employees.

SPECIFIC TERMS AND CONDITIONS: In addition to any wages due, an employee who is fired or dismissed from the job without good cause is entitled to receive from the employer (1) an additional 3 months' pay as indemnity, provided the employee has completed the applicable probationary period, and (2) additional compensation equivalent to 2 weeks' pay for each accrued year of service. In no case may the additional compensation exceed 9 months' pay.

Discharge generally may not be deemed for good cause unless it is predicated on (1) a pattern of improper or disorderly conduct by the worker, (2) inefficient, negligent, tardy or poor job performance by the worker, (3) the worker's repeated violation of written work rules, (4) full, temporary or partial closure of the employer's establishment, (5) technological changes or reorganization of the establishment, (6) changes in the product produced, or (7) a general workforce reduction.

It is generally up to the employee to prove that termination was without just cause.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — To recover the indemnity authorized for a worker discharged without good cause, the worker must file suit against the employer involved, using a private attorney or public legal service provider. Civil court action must be instituted no later than one year after the effective date of discharge.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MISCELLANEOUS LABOR LAWS (COMMISSARIES AND CASH ADVANCES)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 144 - 145

GENERAL SUMMARY: Every person, firm or other entity in Puerto Rico employing more than 10 workers is generally prohibited from operating or holding any interest in a business which sells food, clothing, tools or other goods to its employees.

Likewise, an employer may not directly or indirectly make any cash advances to a worker for the purpose of enabling the worker to purchase goods from a particular vendor or commercial establishment dictated by the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural employers and protect agricultural workers to the same extent as their counterparts in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any worker who is compelled by an employer to purchase goods or merchandise from the employer, or from a particular establishment identified by the employer, should report the matter to the Department. For each day on which an employer does business in violation of these provisions, he or she is subject to a fine of from \$50 to \$200, a jail term of between 30 and 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

○ OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: It is the intent of the Occupational Safety and Health Act to assure, as far as possible, that every worker in Puerto Rico has safe and healthful working conditions and to preserve the Commonwealth's human resources, in large part by (1) imposing on employers a general duty to furnish a job and workplace free from recognized hazards which may cause death or serious physical harm to the workforce, and (2) requiring employers to comply with specific safety and health standards adopted or approved by Puerto Rico's labor secretary which are applicable to their respective places of employment. The scope of the Act encompasses all fields of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Puerto Rico's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and apply only to farm operations that employ 10 or more workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Apart from its rulemaking functions under the Act, the Department is responsible for investigating reported or suspected violations. Representatives of the Department are authorized to enter places of employment, observe working conditions, examine structures and equipment, and question employees, either in connection with any such investigation or as a matter of routine inspection. Discovery of a violation of the Act or the associated standards or regulations may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the labor secretary has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Puerto Rico's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and apply only to those farm establishments that employ 10 or more employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Discovery of a violation of the field sanitation standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Puerto Rico's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Discovery of a violation of the temporary labor camp standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

PUERTO RICO EMPLOYMENT SECURITY ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 701 – 717

GENERAL SUMMARY: The Puerto Rico Employment Security Act provides for the payment of weekly unemployment insurance benefits to jobless workers who have earned the requisite amount of wage credits from UI-insured employment and meet other eligibility requirements. Benefits are paid out of the unemployment fund, which is supported in large part by compulsory employer contributions computed as an annually fixed percentage of a subject employer's taxable payroll.

In general, every employer that has at least one employee during any day in the current or preceding calendar year is required to pay UI contributions.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — To the same extent as employing units outside the agricultural sector, every farm operator or other agricultural establishment that employs one or more workers in agricultural labor is required to pay contributions to the unemployment fund. Employers generally pay contributions to the Puerto Rico fund in an amount equal to their annually assigned tax rate, multiplied by the amount of wages paid to each worker during the calendar year, up to a per-worker wage limit of \$10,500.

ELIGIBILITY FOR BENEFITS — Unless otherwise disqualified, an agricultural worker is generally eligible to receive unemployment insurance benefits if he or she (1) has filed a notice of unemployment, (2) has registered for work at an employment service office, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding notice of unemployment, earned wages from UI-insured employment in at least two of those quarters.

AMOUNT OF BENEFITS — The weekly benefit amount for eligible claimants who have earnings primarily or exclusively from agricultural employment, and have earnings in only one quarter of the four-quarter base period mentioned above, may range from \$10 a week up to a maximum of \$42 a week (2016).

For agricultural workers who have earnings in more than one quarter of the base period, the benefit schedule for non-agricultural workers applies, which provides for payments ranging from \$7 to \$133 a week (\$33 to \$190 beginning July 1, 2018, \$60 to \$240 beginning July 1, 2019). For any week in which a UI recipient also has earnings from part-time employment, the worker is entitled to receive the weekly benefit amount, minus that portion of the week's part-time earnings that exceeds the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900). The Department is responsible both for the enforcement of the employer's liability for payment of UI contributions, and for administration of UI claims and benefit payments. Applications for compensation may be filed by telephone, at 787-945-7900.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 1 - 42

GENERAL SUMMARY: Under the Compensation System for Work-Related Accidents Act, every covered worker who suffers an accidental on-the-job injury or contracts an occupational disease is generally entitled to (1) medical treatment, medicines and necessary hospital services, and (2) weekly cash compensation for the duration of any period of temporary disability, or for a specified number of weeks in the event of permanent disability. If death results from such an injury or disease, the Act authorizes the payment of monthly benefits to the worker's surviving dependents for up to 10 years.

Every employer subject to the Act is compelled to pay premiums to the State Insurance Fund to cover the employer's liability for workers' compensation. Not only are there criminal penalties for failure to insure, but an employer who is not insured at the time of a compensable injury may be sued by the injured worker for damages, and the fact that the worker or a co-worker was guilty of negligence, or that the worker had assumed the risk that led to the injury, may not be used by the employer as a defense to the suit.

PROVISIONS APPLICABLE TO AGRICULTURE: The Compensation System for Work-Related Accidents Act applies to agricultural establishments and all other employers in Puerto Rico who employ one or more non-casual workers. Hence, like their counterparts in other industries, farmworkers who suffer injury, are disabled, or lose their lives in an accident caused by and in the course of their employment, or who are disabled or die from an occupational disease, have a right to receive medical care and monetary compensation furnished by their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). The Insurance Fund Corporation is responsible for enforcing the liability of employers to insure the payment of workers' compensation, and is authorized to suspend the activities of any business found to be operating without required insurance. It is the Corporation's duty, also, to refer injured workers to designated health care providers for examination and treatment, to attend to the physical rehabilitation of such workers, and to assure the payment of workers' compensation benefits to eligible claimants. A worker who is injured in any way in connection with the job should notify the employer immediately, so that the employer may report the accident to the State Insurance Fund in compliance with the statutory 5-day limitation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545). In response to an appeal, the Industrial Commission is authorized to review any decision by the State Insurance Fund Corporation which adversely affects a workers' compensation claimant.

INJURED MIGRANT WORKERS LAW

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 60 – 65

GENERAL SUMMARY: Chapter 2 of the workers' compensation statutes (1) authorizes the Puerto Rico Industrial Commission to intervene on behalf of workers injured in the United States, and (2) provides for the payment of medical and hospital benefits for certain job-injured migrant workers returning to Puerto Rico from employment abroad. These provisions apply implicitly to agricultural workers, to the same extent as workers in any other industry or occupation.

SPECIFIC TERMS AND CONDITIONS

ASSISTANCE WITH U.S. CLAIMS — When a Puerto Rico migrant worker is injured or killed in an occupational accident in any state or territory of the United States and the worker or the worker's surviving dependents are unable to get back to the location where the accident occurred to process a workers' compensation claim, the Industrial Commission of Puerto Rico is authorized to intervene on the claimant's behalf. Under this authority, the Commission may perform such functions as obtaining additional medical evidence at the request of the workers' compensation administering agency having jurisdiction over the case, or taking steps at the request of the injured worker or the worker's beneficiaries to expedite processing of the claim.

MEDICAL AND HOSPITAL BENEFITS — Migrant workers from Puerto Rico who are injured in a work-related accident or disabled by an occupational disease in the course of employment abroad under a contract of hire approved by Puerto Rico's labor secretary, and who require medical treatment and hospitalization on their return to Puerto Rico, are generally eligible for medical and hospital benefits provided under the Compensation System for Work-Related Accidents Act until their rehabilitation. The cost of services for injured workers returning to Puerto Rico is paid for out of budget appropriations to the Department of Labor and Human Resources, but the labor secretary is obligated to attempt to recover all such costs from the employer's insurer in accordance with mandatory provisions in the approved contract of hire.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545).* The Industrial Commission has a duty to assist injured workers returning home to Puerto Rico in obtaining workers' compensation benefits to which they may entitled, as described above. The Commission is also responsible for handling appeals from workers denied services by the State Insurance Fund Corporation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180). The Department is authorized to request medical and hospital services through the State Insurance Fund on behalf of any worker who is injured abroad while employed under a Department-approved contract.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). The Insurance Fund Corporation is responsible for referring injured workers to designated health care providers for examination and treatment, for attending to the physical rehabilitation of such workers, and for assuring the payment of workers' compensation benefits to eligible claimants.

TEMPORARY DISABILITY BENEFIT ACT

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 201 – 212

GENERAL SUMMARY: The Temporary Disability Benefit Act authorizes the payment of weekly cash benefits to workers who suffer loss of wages as a result of disability due to illness or injury not connected with employment. Benefits are financed from the disability benefit fund, into which most Puerto Rico employers are required to pay a fixed percentage of the dollar-volume of their payroll, matched by an equal amount deducted and withheld from their workers' wages.

PROVISIONS APPLICABLE TO AGRICULTURE

CONTRIBUTIONS — In contrast with their counterparts in other industries, agricultural employers and workers are exempt from the payment of contributions to the disability benefit fund. The benefits received from the fund by agricultural workers disabled by non-work-related causes are reimbursed by the Commonwealth of Puerto Rico.

ELIGIBILITY FOR BENEFITS — Except for employees who usually and regularly operate motor vehicles as an inherent part of their work and hence are covered by the Chauffeurs Social Security Act, agricultural workers are generally eligible for disability benefits to the extent that they (1) have lost wages due to an injury or illness not connected with employment, and (2) have received wages of at least \$150 during the first four of the last five consecutive calendar quarters immediately preceding application for benefits.

AMOUNT OF BENEFITS -

Injury or Illness Benefits — Commencing on the 8th day of a non-work-related disability, an eligible worker with wages primarily or exclusively from agricultural employment is entitled to weekly benefits ranging from \$12 per week (for a worker with total wages of at least \$150 but not more than \$250 over the four-quarter base period), up to \$55 a week (for workers with an annual income of more than \$2,300).

Benefits for Dismemberment — In addition to the periodic disability payments mentioned above, a worker whose illness or injury results in loss of sight, a limb, or parts of a hand or foot, is generally eligible for a one-time dismemberment payment ranging from \$2,000 to \$4,000, depending on the specific loss.

Death Benefits — Upon the death of an eligible worker from a non-work-related illness or injury (other than an automobile accident), the worker's dependent beneficiaries are entitled to a payment of \$4,000, provided a claim is filed within 6 months following the worker's death.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900). The Department is responsible for determining the liability of employers and employees for the payment of contributions to the disability benefit fund, for collecting contributions, for determining eligibility of workers for benefits, and for authorizing the disbursement of benefits to eligible workers or their dependents. Disability claims may be filed at any local Employment Security office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CHAUFFEURS SOCIAL SECURITY LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 681 – 695

GENERAL SUMMARY: Chapter 45 of the Puerto Rico labor statutes establishes an employee benefit program for individuals who operate a motor vehicle in connection with their work. The plan, financed by a weekly assessment levied against both covered employees and their employers, provides for the payment of weekly cash benefits for sickness or disability, a voluntary retirement bonus at age 65 or over, and death benefits covering the worker and the worker's dependents.

PROVISIONS APPLICABLE TO AGRICULTURE: On the same terms as their counterparts in other industries, agricultural workers who are authorized to drive a motor vehicle under a driver's, chauffeur's, or heavy motor vehicle operator's license, and who usually and regularly drive a motor vehicle as an inherent part of their work, are covered by the social security program for chauffeurs, described in more detail below.

CONTRIBUTIONS — Every employer who hires one or more covered workers must promptly provide the program's administering agency with the name, motor vehicle operator's license number, Social Security number, and address of each such worker, and must withhold 50 cents each week from the worker's pay as dues to the Chauffeurs Social Security fund. Within 60 days after the end of each calendar quarter, the employer must remit to the fund all amounts withheld from covered workers, along with the employer's share of contributions (equal to 30 cents per week for each covered worker) and a list showing the name, license number, Social Security number, and weeks of work for each contributing employee.

BENEFITS —

Sickness Benefits — Workers who have paid dues for at least 25 weeks in the four calendar quarters preceding onset of a physical or mental condition (including pregnancy or childbirth) which prevents work and operation of a motor vehicle, are generally eligible for weekly sickness benefits for the duration of incapacity, up to a maximum period of 30 weeks. The amount of the benefits depends on the number of weeks of dues paid in the four-quarter contributing year, but benefits may range from \$16 a week for workers with 25 to 29 weeks of dues, up to \$30 for 45 weeks or more. A supplementary amount of from \$6 to \$30 will be added to the normal weekly benefits of any worker who has at least 50 weeks of dues credits over the preceding five-year period.

Permanent and Total Disability Benefits — A covered worker who, before the age of 65, becomes permanently unable to operate a motor vehicle is generally eligible for a one-time benefit payment for total and permanent disability if the claimant (1) has paid dues to the Chauffeurs Social Security fund for at least 40 weeks in the four-quarter period immediately preceding onset of disability, and (2) has had his or her motor vehicle operator's license canceled due to the disability. The amount of the payment varies in proportion to the number of weeks of dues paid in the five-year period preceding disability and in inverse proportion to the claimant's age. At the low end of the scale, eligible workers 64 years of age with less than 100 weeks of dues to their credit may receive \$360, while those under age 61 with 240 weeks of credits or more qualify for a payment of \$3,600.

Voluntary Retirement Bonus — Every insured worker who is at least 65 years old is entitled to receive a one-time bonus payment upon petition to the administering agency, provided the worker (1) has paid dues to the fund for at least 40 weeks during the four contributing quarters immediately before filing a petition or reaching age 65, and (2) has voluntarily requested cancellation of the chauffeur's or heavy motor vehicle operator's license. The amount of the bonus may range from \$180 to \$360, depending on the worker's dues credits.

Death Benefits — In the event of the death of a covered worker who has paid the fund dues corresponding to 10 weeks or more in the four-quarter contributing year immediately preceding the date of death, the worker's dependents are entitled to a lump-sum payment, the amount of which is determined by the number of weeks of dues credits paid both in the four-quarter contributing year and over the five calendar years preceding the first day of March before the date of death. Death benefits start at \$800 for workers with 10 weeks of dues in the four-quarter contributing year and less than 100 weeks in the five-year base period, and may go as high as \$6,000 for those with contributing-year credits of 45 weeks or more and base-period credits of 240 weeks or more. The fund will also pay to each worker who has at least 40 weeks of dues credits the sum of \$800 for the death of the worker's spouse, \$500 for the death of a child 6 to 15 years of age (inclusive), and \$300 for the death of a child under the age of 6. A claim for death benefits must be filed within one year after the date of death.

REINSTATEMENT TO EMPLOYMENT — In the case of a worker's illness or non-permanent disability for which benefits are payable under these provisions, the employer is generally obligated to reinstate the worker within 30 days after he or she is discharged from treatment, provided that (1) the job still exists when the worker requests reinstatement, (2) the worker is mentally and physically able to perform the job, and (3) the request is made no later than one year after the onset of the disability.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900). The Department is responsible for determining the liability of employers and employees for the payment of Chauffeurs Social Security contributions, for collecting the contributions, for determining workers' eligibility for benefits, and for making benefit payments. Application for benefits may be made at any local Chauffeurs Social Security office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Puerto Rico Department of Treasury, San Juan, Puerto Rico 00901 (787-721-2020). This agency is the trustee of the Chauffeurs Social Security fund and is responsible for its auditing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Puerto Rico Department of Transportation and Public Works, San Juan, Puerto Rico 00919 (787-294-0500). This agency is responsible for issuing motor vehicle operators' licenses in Puerto Rico, and hence for providing certain certifications to the Department of Labor and Human Resources regarding eligibility of workers for benefits under this law.

PRIVATE CIVIL ACTION — If an employer fails to comply when a worker requests reinstatement to the job after a period of disability ends, the worker may take action in civil court to recover the wages he or she would have received if reinstated, as well as monetary damages.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 564 - 574

RELATED REGULATIONS: Regulation 417

GENERAL SUMMARY: Chapter 33 of Puerto Rico's labor statutes regulates, among related activities, the operation of private employment agencies, broadly defined as any person or organization that offers to arrange employment for individuals seeking work or to procure workers for employers seeking help. The private employment agency law applies to all such activities, whether or not a fee is charged for the services provided and irrespective of the nature of the employment offered or sought.

SPECIFIC TERMS AND CONDITIONS

LICENSING — It is illegal to operate an employment agency in Puerto Rico without a license issued by the administering agency authorizing such activity. In addition to a finding that the applicant is of good moral character and professional integrity, issuance of a license requires the posting of a bond of at least \$3,000 covering loss or damage arising from non-compliance with the law, and payment of a license fee.

PROHIBITED ACTS — Among numerous other infractions described in the statute, licensed employment agencies are forbidden (1) to make any false promise or give false information to a worker or employer, (2) to send a worker to a job site where a strike or lockout is in progress without first advising the worker in writing that such a condition exists, and (3) to fail to keep required records of their activities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). The Department is responsible for the licensing of employment agencies and for assuring compliance by licensees with the restrictions and duties imposed on them by these provisions. In response to a specific complaint or on the agency's own accord, representatives of the Department may visit and inspect any premises where an employment agency is conducting business, and may examine and copy registers and other documents pertaining to operation of the business. Besides suspension or loss of the license to operate, violators of the employment agency law are subject to prosecution on criminal misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PUBLIC LAW 87

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 526 - 534

GENERAL SUMMARY: Chapter 31 of the Puerto Rico labor statutes contains provisions regulating the recruitment of workers in Puerto Rico for employment of any sort outside the Commonwealth.

SPECIFIC TERMS AND CONDITIONS

AUTHORIZATION TO RECRUIT AND TRANSPORT — It is unlawful for any person, any organization, or the agent of a person or organization, to recruit or transport laborers for employment outside Puerto Rico without authorization by the labor secretary.

NOTIFICATION — Every person, organization or agent intending to recruit laborers in Puerto Rico for contract employment abroad must first provide the labor secretary with advance notification concerning the recruitment effort and the prospective employment, including the number of workers to be contracted for, the mode of transportation to be used to get the workers to the job site, the name and address of the employer, the kind of work to be performed, the wages and other compensation to be paid, the minimum guaranteed working hours, and other job conditions and benefits.

WRITTEN CONTRACTS — Anyone who undertakes to recruit workers as described above is required to execute a written contract with each such worker. The contract must contain certain minimum guarantees prescribed by the enforcement agency, and once the contract is approved, the agency is obligated to protect the worker's rights as spelled out in that document.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180). The Department is responsible for reviewing the terms of proposed labor recruitment and contracting activities, monitoring those activities as they take place, and enforcing the rights of the workers employed under the resulting contracts, wherever the labor is actually performed. The Department is authorized to institute necessary legal proceedings to enforce compliance. In addition to criminal penalties, persons who violate these provisions are civilly liable for double the amount of damages caused to any worker or job applicant for breach of contract.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

PUERTO RICO LABOR RELATIONS ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 61 - 76

GENERAL SUMMARY: The Puerto Rico Labor Relations Act defines the organizational rights of covered employees, provides for the settlement of questions concerning employee representation, defines certain unfair labor practices, and establishes procedures for resolving charges by workers and employers alleging such practices. The Act generally applies to all employees in Puerto Rico's public corporations, and to non-governmental employees not covered by the National Labor Relations Act (see entry, U.S.—Labor Relations & Collective Bargaining—General Labor Relations).

SPECIFIC TERMS AND CONDITIONS

LABOR RIGHTS — Private agricultural and non-agricultural workers have the right to self-organize, to form, join and assist labor organizations, to bargain collectively with their employers through representatives of the workers' own choosing, and to engage in related activities for their mutual aid and protection.

REPRESENTATIVES AND ELECTIONS — Whenever a question concerning representation of employees arises, the agency responsible for administering the Act may investigate and settle the question, by ordering a secret-ballot election or by taking appropriate alternative measures. In every such election, the ballot must be prepared so as to permit a vote against representation by anyone named on the ballot. An entity designated or elected for collective bargaining purposes by a majority of the workers in a given bargaining unit is considered the exclusive representative of all the workers in the unit, but an individual worker still has the right at any time to present individual grievances to his or her employer.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is illegal for an employer (1) to coerce, restrain or interfere with employees in the exercise of the rights outlined above, (2) to attempt to dominate or interfere with the formation or administration of a labor organization, or contribute support to a labor organization, (3) to attempt to encourage or discourage membership in a labor organization, (4) to refuse to bargain collectively with the representative of a majority of the employees in a particular bargaining unit, or (5) to violate the terms of a collective bargaining contract.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Labor Relations Board, San Juan, Puerto Rico 00919 (787-620-9545). It is the role of the Board to receive and act on petitions for union elections and otherwise resolve representational disputes between workers and employers. Likewise, the Board must respond to unfair labor practice charges by appropriate investigation, fact-finding hearings and conciliation meetings, and may order suitable corrective action whenever a violation is confirmed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE ACT OF PUERTO RICO

STATUTORY CITATION: 5 Laws P.R. Ann. §§ 1001 – 1013

RELATED REGULATIONS: Regulation 7769

GENERAL SUMMARY: The Pesticide Act of Puerto Rico regulates the use of pesticides, in part by requiring the licensing and certification of applicators, imposing recordkeeping and reporting duties on some applicators, and prohibiting specified acts involving pesticides. The Act authorizes the enforcement agency to adopt administrative rules further regulating pesticides and pesticide users in Puerto Rico.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Any person or establishment that is in the business of applying pesticides commercially must have a license issued by the government of Puerto Rico to do so. Applicants for a license must, among other requirements, furnish bond in an amount ranging from \$50,000 to \$100,000, to guarantee payment of any loss or damage caused by the licensee in the course of pesticide operations. The applicant must also submit evidence of compliance with federal pesticide licensing requirements, if applicable.

APPLICATOR CERTIFICATION —

Private Agricultural Applicators — Persons engaged in the application of restricted-use pesticides for farming must be certified by the government of Puerto Rico to do so. As a prerequisite for certification, private applicators must pass a test demonstrating practical knowledge of agricultural pests and pest control methods. Among other competencies, applicants for certification must show they can read and understand pesticide labeling information, apply pesticides in accordance with label instructions and warnings, recognize application problems that could cause environmental contamination, and recognize symptoms of pesticide poisoning and take effective measures in case of an accident.

Commercial Applicators — Persons who apply restricted-use pesticides commercially are required to be certified to do so. Among other requirements, commercial applicators must demonstrate general knowledge about pesticides and their hazards, and must pass a written exam covering such topics as plant pests, pesticide products and labeling, toxicity, application techniques, pesticide storage and disposal, protective equipment, environmental protection, accident prevention, and emergency treatment.

RECORDKEEPING — Every applicator of restricted-use pesticides used in an agricultural operation must make and preserve a record of each such application. At a minimum, the record must include the applicator's name and certification number, the name and federal registration number of the pesticide used, the date and hour of the treatment, a description of the area and crop treated, the specific pest being targeted, the dosage used, the re-entry interval involved, and the procedure used to dispose of unused product.

ACCIDENT REPORTING — Every applicator of restricted-use pesticides must immediately inform the enforcement agency of the occurrence of any accident where a restricted-use pesticide under the applicator's responsibility is involved.

WORKER PROTECTION — Agricultural employers must comply with the worker protection standards established by the U.S. Environmental Protection Agency, which require that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

PROHIBITED ACTS — It is unlawful for anyone to use or apply any pesticide in a manner that does not comply with use instructions on the product label. Among other grounds for denial, suspension or revocation of applicator certification, an applicator may not perform pesticide applications for which he or she is not certified, violate any provision of the Puerto Rico or U.S. pesticide laws, or fail to maintain required records.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agrology and Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico 00646 (787-796-1735). Aside from testing, licensing and certifying pesticide applicators, the Department is responsible for monitoring the use of pesticides by all parties in Puerto Rico, and for investigating reported or suspected violations of the Pesticide Act. Representatives of the Department are empowered to enter any establishment or premises where pesticides are being applied, to verify compliance with the Act and the associated regulations. Failure to adhere to these provisions is a misdemeanor, punishable by a fine of from \$100 to \$500 for the first offense, and a \$200 to \$500 fine, imprisonment of 30 days to 6 months, or both fine and imprisonment for each subsequent offense. The Department is authorized to impose administrative fines in lieu of criminal prosecution for any such violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDE ACT OF PUERTO RICO (WORKER PROTECTION)

STATUTORY CITATION: 5 Laws P.R. Ann. §§ 1001 – 1013

RELATED REGULATIONS: Regulation 7769, Art. 21

GENERAL SUMMARY: Under the Pesticide Act's rulemaking authority, Puerto Rico's agriculture secretary has adopted administrative rules that include explicit protections for agricultural workers in the field.

SPECIFIC TERMS AND CONDITIONS

Agricultural employers must comply with the worker protection standards established by the U.S. Environmental Protection Agency, which require that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agrology and Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico 00646 (787-796-1735).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 – 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. The hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) but may be enforced against all agricultural workplaces in Puerto Rico.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Discovery of a violation of the hazard communication standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 – 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor secretary has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Puerto Rico's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply only to farm operations that employ 10 or more workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

● PUERTO RICO MINIMUM WAGE, VACATION AND SICK LEAVE ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 250 - 250j

RELATED REGULATIONS: Mandatory Decrees 57, 58, and 69

GENERAL SUMMARY: The Puerto Rico Minimum Wage, Vacation and Sick Leave Act provides that the minimum wage set by the U.S. Congress under the federal Fair Labor Standards Act — currently \$7.25 per hour — applies to workers in Puerto Rico to the same extent and subject to the same exemptions, exclusions and exceptions. Employers in Puerto Rico who are exempt under FLSA from paying the federal minimum wage must pay their workers no less than 70 percent of the federal minimum, or \$5.08 an hour.

Industries that were paying higher wages under a mandatory decree (administrative wage order) when the Minimum Wage, Vacation and Sick Leave Act went into effect must continue to pay the higher rate.

Under the Act, most employees other than domestic workers are also entitled to accrue vacation leave, at a rate of 1/2 day per month during the first year of employment, 3/4 day per month from the second through the fifth year, 1 day per month from the sixth through the 15th year, and 1½ days each month thereafter. Sick leave accrues at a rate of one day each month. Employees must work no less than 130 hours a month to earn the respective credit for vacation and sick leave.

Exception — In the case of employers who are residents of Puerto Rico and who employ no more than 12 workers, vacation leave accrues at the rate of 1/2 day per month for as long as the employer's workforce does not exceed 12 employees.

PROVISIONS APPLICABLE TO AGRICULTURE

WORKERS COVERED BY FLSA — Farmworkers are entitled to the \$7.25 minimum wage currently in effect under the Fair Labor Standards Act only if they work for an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Such workers are also entitled to accrue vacation and sick leave, at the rates noted above, for each month in which they work at least 130 hours.

WORKERS NOT COVERED BY FLSA — Farmworkers who are employed by an agricultural establishment that does not meet the 500 worker-day test described above must generally be paid no less than \$5.08 an hour. These workers are *not entitled* to accrue vacation and sick leave under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act.

MINIMUM PAY UNDER MANDATORY DECREES — All three of the mandatory decrees pertaining to the agricultural industry provide for hourly wages that are less than the \$7.25 and \$5.08 rates prescribed in the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, and thus are not applicable.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

PREEMPTION BY GUARANTEED INCOME — The minimum wage rates indicated above may be effectively preempted by a separately legislated "guaranteed income," the payment of which is underwritten by the government of Puerto Rico. As described in the next entry, where the guaranteed income is higher than the minimum wage, the farm operator pays the guaranteed income to the worker and the government reimburses the farm operator for the difference between the guaranteed income and the minimum wage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any worker who receives lower compensation than the rate prescribed in or authorized under the Minimum Wage Act may file a claim with the Department, which has power to prosecute the claim in court on the worker's behalf. A worker's claim for unpaid wages must be filed within one year after the worker's employment ends.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker claiming a violation of the Act is entitled to recover in a civil suit the unpaid wages plus an additional equal amount as damages, as well as interest, court costs and attorney's fees. Court action, through a private attorney or a public legal service provider, must be initiated within one year after the claim arises.

GUARANTEED INCOME LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 2001 - 2009b and §§ 2031 - 2040

GENERAL SUMMARY: Chapter 81 of the Puerto Rico labor laws authorizes payment of a guaranteed income to workers in the agricultural phase of the sugarcane industry, while Chapter 83A extends the income guarantee to most other agricultural workers.

SPECIFIC TERMS AND CONDITIONS: The Commonwealth of Puerto Rico guarantees agricultural workers an hourly income of at least \$5.25, but only after employers have met their obligations under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, statutory overtime pay provisions, and compensation requirements under any existing labor contract. To the extent that a worker's pay for a given hour's work amounts to less than the guaranteed hourly earnings, the employer must pay the worker the guaranteed income for that hour of labor. The difference between the guaranteed income and any lesser mandatory wage borne by the employer (known as the "income supplement") is reimbursed to the employer by the government of Puerto Rico within 90 days after the employer has submitted the required reporting forms.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350). This agency is responsible for seeing that agricultural workers receive the guaranteed income applicable to their respective occupational activities and may investigate the claim of any worker who has not been properly compensated. The agency also administers the reimbursement provisions of the guaranteed income program, including the processing of report forms received from growers, computation of grower wage reimbursements and subsidies, and authorization of payments.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). The Department is responsible for enforcing employer compliance with Puerto Rico's labor laws and may investigate any agricultural employer who fails to pay the applicable guaranteed income to a worker whose hourly compensation is below the guaranteed level.

HOUR LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 271 – 299

GENERAL SUMMARY: Chapter 13 of the labor statutes governs working hours and related pay conditions in Puerto Rico, including, in part, the length of the workday and workweek, overtime compensation, employee meal periods, days of rest, and employer posting and recordkeeping duties. These provisions apply generally to both agricultural and non-agricultural employment, without distinction.

SPECIFIC TERMS AND CONDITIONS

WORKING HOURS — In all workplaces, 8 hours constitute a legal workday and 40 hours a legal workweek.

OVERTIME PAY — In general, an employer who permits a worker to work more than 8 hours on any workday or more than 40 hours in any workweek generally must pay the worker no less than $1^{\circ}/2$ times the worker's regular rate of pay for each hour of overtime; as used here, the term "regular rate of pay" means the applicable wage under the minimum wage law or whatever higher rate the worker receives from the employer during regular hours, without regard to the guaranteed income underwritten by the Commonwealth of Puerto Rico.

Exception — Through a written agreement between the employee and the employer, an alternate weekly work schedule may be established that allows the employee to complete a workweek of up to 40 hours, with daily shifts that may not exceed 10 hours per work day. But if the employee works more than 10 hours in a workday, the extra hours must be paid at a rate of $1^{1}/2$ times the regular pay rate.

MEAL PERIODS — An employer may not require employees to work more than 5 consecutive hours without a meal break of at least one hour; an employer and an employee may agree, in writing, to meal periods of no less than 30 minutes. Any authorized work during a meal period must be compensated at 1½ times the worker's regular pay rate. The meal break does not apply to workers employed for no more than 6 hours on a given day.

DAY OF REST — Except for persons employed on a piecework basis, agricultural and most other workers are entitled to one day of rest for every 6 workdays. Any authorized work on the day of rest must be compensated at $1^{1}/2$ times the worker's regular pay rate.

POSTING — There must be a printed notice at each workplace specifying the length of the workday, as well as the start and end times of the workday and meal period. Moreover, in any agricultural establishment where persons are employed at differing hours during the week, the employer must post a notice stating the name of each worker and the worker's hours on each day of the week.

RECORDKEEPING — Every employer is required to make and preserve a record for each worker employed, showing the wages earned, the regular and overtime hours worked, and other prescribed information.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). In response to a complaint by a worker or on the agency's own initiative, representatives of the Department may inspect the payroll records of any employer in Puerto Rico in order to determine compliance with the hour laws. The Department is authorized to investigate claims for unpaid overtime and may order payment of damages as part of any settlement where an employer is found to have unlawfully withheld compensation for regular or overtime hours. The law also permits criminal prosecution for any such violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who does not receive full pay for regular or overtime hours consistent with these provisions may recover the unpaid sum, plus an additional equal amount as liquidated damages, in a civil suit against the employer. A judgment in the worker's favor may also include court costs and attorney's fees.

WAGE PAYMENT LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 171 - 179

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, regulates the payment of wages.

SPECIFIC TERMS AND CONDITIONS

MEDIUM OF PAYMENT — Workers must receive their wages in legal U.S. money, whether (1) in cash, (2) by check, (3) by direct deposit or electronic transfer, in either case to a bank of the worker's choosing, or (4) by payroll credit card. The worker may choose among the methods of pay the employer makes available. In general, any costs associated with the use of checks or electronic methods of payment must be borne by the employer, not the worker.

RESTRICTIONS ON HOW TO SPEND WAGES — Employers are forbidden from imposing any restrictions or requirements on how or where their employees spend their earnings, and from dismissing a worker because the worker spent his or her wages in a certain place or in a certain way.

FREQUENCY OF PAYMENT — The wages of laborers of any kind must be paid no less often than every 15 days.

FINAL WAGES — When a worker quits or is dismissed, the employer must pay the worker's earnings no later than the next regular payday.

DEDUCTIONS — With few exceptions, it is unlawful for an employer to deduct or retain any part of a laborer's wages other than those amounts authorized by the worker for (1) payment of premiums to certain retirement or hospital service plans, (2) purchase of savings bonds, (3) payment of union dues, (4) repayment of loans advanced by the employer or made by certain institutions, (5) payment of the cost of meals, or repayment of advances for meals, consumed on the job by a worker in the agricultural phase of the sugarcane industry, (6) payment of premiums for certain types of insurance, or (7) charitable contributions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). A worker who has not been paid in accordance with these provisions or is aggrieved by any other alleged violation of the wage payment laws may file a complaint with the Department, which is obliged to investigate and attempt to resolve the matter to the worker's satisfaction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — To recover unpaid wages, a worker has the option of filing suit against the employer directly, using a private attorney or public legal service provider. Civil court action may not be instituted later than one year after the worker terminates employment with the employer involved.

■ INTERNAL REVENUE CODE OF 2011 (INCOME TAX WITHHOLDING AT THE SOURCE)

STATUTORY CITATION: 13 Laws P.R. Ann. §§ 30271 – 30282

GENERAL SUMMARY: The withholding provisions of Puerto Rico's Internal Revenue Code require every employer making payment of most forms of wages to deduct from each employee's pay an amount corresponding to the worker's income tax liability on the wages, as determined by official withholding schedules. Employers are obligated (1) to periodically report the amount of wages paid and taxes withheld and deposit or remit withheld amounts to the treasury, and (2) by January 31 of the following year, to furnish each worker with a written statement showing the amount of wages paid during the calendar year and the amount of taxes deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: For income tax withholding purposes, the term "wages" does not include remuneration paid for agricultural services, and hence agricultural workers (other than executive, administrative, supervisory and office personnel) are **exempt** from these provisions.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual Puerto Rico income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Collections, Puerto Rico Department of Treasury, San Juan, Puerto Rico 00901 (787-622-0123).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WORKERS AND EMPLOYEES BONUS LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 501 - 507

GENERAL SUMMARY: Most employers who employ more than 20 workers for more than 26 weeks during the annual period ending September 30 each year are obligated to grant every employee who has worked at least 1,350 hours a bonus equal to 2 percent of the employee's wages over the annual period, up to a maximum bonus of \$600. For employers who employ 20 workers or fewer for more than 26 weeks, the bonus is equal to 2 percent of the worker's annual earnings, up to a maximum of \$300.

Exception — During the first year of a worker's employment, the employer is required to pay only 50 percent of the bonus amount noted above.

The total amount of an employer's liability for payment of the employee bonuses may not exceed 15 percent of the employer's net annual profit.

The bonus, which is in addition to any other wages or benefits to which the worker is entitled, must normally be paid between November 15 and December 15 following the end of the annual period. The law prescribes a penalty — from 50 to 100 percent of the amount of the bonus, payable to the worker — if an employer fails to pay the bonus during this timeframe.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions do not apply to persons employed in farm activities.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

AGRICULTURAL WORKERS ANNUAL BONUS LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 510 – 510k

GENERAL SUMMARY: Chapter 23 of the Puerto Rico labor laws authorizes payment of an annual bonus to workers whose agricultural earnings or work time meets or exceeds a specified annual level.

SPECIFIC TERMS AND CONDITIONS

BONUS PAYMENT — Every agricultural worker who has performed at least 200 hours of agricultural services or earned at least \$200 in agricultural wages in Puerto Rico over the annual period starting July 1 of each year and ending June 30 of the subsequent year is entitled to a bonus equal to 4 percent of total agricultural income, but in no case less than \$165 or more than \$235. The agricultural bonus, financed by the Commonwealth of Puerto Rico, is payable by December 20 following the end of the corresponding annual period.

EMPLOYER REPORTING — For the purpose of determining eligibility for and the amount of each worker's annual bonus, no later than August 31 of each year all agricultural employers must report to the administering agency the name of each worker employed, the worker's Social Security number, total hours worked, and the amount of earnings over the annual reporting period.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350). This agency is responsible for receiving the employment reports submitted by subject agricultural employers, determining the eligibility of workers for the annual agricultural bonus, computing the amount of the bonus, and disbursing payments to the workers. The agency may also investigate claims for unpaid annual bonuses. If a worker is eligible for the bonus but fails to receive all or part of the amount to which he or she is entitled due to non-compliance by one or more farmers with their reporting duty under these provisions, the worker may claim double the amount of the difference between the total bonus payable and the bonus actually received.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). This agency is responsible for furnishing the wage and hour information required to determine eligibility of workers employed in the agricultural phase of the sugar industry, and for prosecuting claims for unpaid annual bonuses on behalf of any agricultural worker.

Rhode Island

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Rhode Island

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-3-1 - 28-3-20

GENERAL SUMMARY: Chapter 3 of the Rhode Island labor statutes regulates, among other matters, the employment of children in the state, by restricting the age at which work is authorized in specified trades and establishments, limiting the working hours of minors, requiring the issuance of a work permit as a precondition on hiring youth, and prohibiting the employment of minors in hazardous occupations and workplaces. These provisions generally apply to individuals and firms employing 5 or more workers or employing any child under the age of 16.

PROVISIONS APPLICABLE TO AGRICULTURE: The child labor laws **do not apply** to minors employed in agricultural pursuits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: 16 R.I. Gen. Laws §§ 16-19-1 - 16-19-10

GENERAL SUMMARY: With only narrow exceptions, every child in Rhode Island who has reached the age of 6 but is not yet 18 must regularly attend a public day school, an approved private school, or an approved course of at-home instruction during the days and hours the local public schools are in session. It is the legal duty of every person who has under his or her control a child between the ages of 6 and 18 to see that the child regularly attends school or its approved equivalent.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies without regard to the employment status or occupational classification of the child or the child's custodian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local public school committees, through truant officers appointed for that purpose. Truant officers are authorized to visit places of employment, inspect personnel records, and take other steps to ascertain compliance with the school attendance law. For any violation of the law, truant officers alone are empowered to file a complaint against the responsible party. Neglect of the duty to assure a child's attendance is punishable by a fine of up to \$50 per day for each day of unexcused absence. If non-compliance exceeds a cumulative total of 30 days, the penalty for conviction may include a fine of up to \$500 and 6 months' imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ WORKERS' COMPENSATION ACT (ILLEGAL CHILD LABOR)

STATUTORY CITATION: 28 R.I. Gen. Laws § 28-33-22

GENERAL SUMMARY: Under the Workers' Compensation Act, an employee who is injured in a job-related accident, and who at the time of the injury was a minor employed in violation of a state or federal child labor provision, is entitled to 3 times the amount of compensation which would have been payable if the worker had been legally employed.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers and other agricultural employers who employ 25 or more farmworkers for 13 or more consecutive weeks are generally required to provide workers' compensation coverage to their employees, and thus would be subject to the requirement to pay triple compensation in connection with the job-related injury or death of a minor employed in violation of federal child labor laws. (As noted above, the state child labor provisions do not apply to minors employed in agricultural pursuits.)

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

STATE FAIR EMPLOYMENT PRACTICES ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-5-1 - 28-5-43

GENERAL SUMMARY: The State Fair Employment Practices Act affirms the right of most individuals in Rhode Island to equal employment opportunities, regardless of race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin. More specifically, the Act outlaws certain specified practices that are contrary to this policy, and establishes an administrative mechanism for resolving worker complaints charging any such violation.

The law generally applies to employers with 4 or more employees, and protects workers in all areas of employment other than domestic service.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — Employers with 4 or more employees are prohibited from engaging in any of the following practices, among others:

- (1) Refusing to hire a job applicant because of the applicant's race, color, religion, sex, sexual orientation, gender identity or expression, disability, age (40 or over), or country of ancestral origin.
- (2) Discharging or discriminating against an employee, on any of the same grounds, with respect to tenure, compensation, terms or privileges of employment, or any other matter related to employment.
- (3) Utilizing for recruitment or hiring purposes any employment agency, placement service, training provider, labor organization, or any other source of job applicants that the employer has reasonable cause to know discriminates against individuals because of their race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin.
- (4) Using any form of job application containing questions or entries directly or indirectly pertaining to race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin, unless any such factor is a bona fide occupational qualification for the job involved.
- (5) Publishing or circulating any employment advertisement or notice indicating a preference, limitation or bias based on race, color, religion, sex, disability, age, or country of ancestral origin.
- (6) Refusing to reasonably accommodate a worker's or prospective worker's disability, unless the employer can demonstrate that the accommodation would impose a hardship on the employer's business.

Employment agencies and labor organizations are subject to comparable proscriptions against discrimination.

COMPLAINTS — Any individual who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by the Fair Employment Practices Act may file a complaint with the state enforcement agency. When preliminary investigation of the allegations yields probable cause to believe a violation has occurred, the agency must attempt to negotiate a conciliation agreement under which the employer or other respondent named in the complaint pledges to refrain from further unlawful employment discrimination. Failure to reach an informal accord will generally lead to formal written charges against the respondent and a subsequent hearing to allow the respondent to answer them. If the hearing record supports a conclusion that a violation of the Act was committed by the respondent, the agency may issue an order requiring cessation of the illegal employment practice and appropriate corrective action, including such affirmative measures as hiring, reinstatement, or job upgrading, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661). The Commission has explicit authority to hold hearings, subpoena witnesses, take testimony, examine personnel records and related documents, and issue enforceable orders for compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — If, not less than 120 days and no more than 2 years after the filing of a charge, the Commission has not been able to reach a settlement or conciliation agreement and has not commenced the hearing process, a worker may request a "notice of right to sue" from the Commission, which must provide the notice within 30 days of the request. The issuance of the right to sue terminates all proceedings before the Commission and allows the worker to file suit against the violator directly, using a private attorney or public legal service provider. Any such suit, however, must be filed within 90 days after the right to sue is issued.

CIVIL RIGHTS OF PEOPLE WITH DISABILITIES LAW

STATUTORY CITATION: 42 R.I. Gen. Laws §§ 42-87-1 - 42-87-5

GENERAL SUMMARY: Chapter 42-87 of the state statutes prohibits discrimination by any person or entity doing business in Rhode Island against any otherwise qualified individual with a disability, solely because of the individual's disability. More specifically, no otherwise qualified person with a disability who, with reasonable accommodation and with no major cost can perform the essential functions of the job in question, may be subjected to employment discrimination solely on the basis of the person's disability. Among other aspects of employment, this proscription applies to recruitment, hiring, promotion or demotion, layoff, termination, compensation and benefits.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment protections provided by these provisions apply without regard to occupational or industrial classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661). Any individual with a disability who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by these provisions may file a complaint with the Commission. Before instituting a formal hearing, the agency must attempt to resolve the matter by informal methods of conference, persuasion and conciliation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any person with a disability who is the victim of discrimination prohibited by these provisions may take legal action in state court against the person or firm responsible for the violation, using a private attorney or public legal service provider. However, if the alleged violation is within the jurisdiction of the Commission for Human Rights, civil action cannot be commenced unless the Commission has failed to act on the person's complaint within 60 days of filing, or the Commission has issued a final order on the complaint.

EQUAL PAY LAW

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-6-17 - 28-6-21

GENERAL SUMMARY: In most trades and industries in Rhode Island, it is illegal for an employer to discriminate between the sexes in the payment of wages, or to pay a female at a wage rate less than the rate received by males in the same establishment for equal work or work on the same operations. Variation in pay rates is not prohibited, however, when the differential is based on seniority, experience, training, skill, ability, difference in duties, difference in shift, or any other reasonable distinction other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: Rhode Island's equal pay law applies implicitly to agricultural employers, and protects agricultural workers, to the same extent as their counterparts in other employing sectors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation is punishable by a criminal fine, imprisonment, or both such penalties and should be reported to the Department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550). At the request of any worker who receives less than full wages as a result of unlawful sex discrimination, the Department may take assignment of the claim in trust and bring necessary legal action against the employer to collect it. In addition to the unpaid wages involved, the employer is liable to the claimant for liquidated damages in an equal amount. Violation of these provisions is also a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative claim with the Department of Labor, a worker aggrieved by an act of wage discrimination based on sex may recover unpaid wages and damages in a direct civil action against the employer, using a private attorney or public legal service provider.

RHODE ISLAND WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-50-1 – 28-50-9

GENERAL SUMMARY: It is illegal for an employer to discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation and other terms, conditions and privileges of employment for any of the following reasons:

- (1) The employee, or a person acting on the employee's behalf, has reported or is planning to report to a public agency or official a violation of state or federal law, whether the violation is about to occur or has already occurred.
- (2) The employee has been asked by a public agency or official to participate in an investigation, hearing or inquiry held by an agency or court of law.
- (3) The employee refuses to violate or assist in violating a federal, state or local law.
- (4) The employee has reported to the employer or to the employee's supervisor a violation of law that the employee believes has occurred or is about to occur.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies to agricultural employers and protects agricultural workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — A person who alleges a violation of the Whistleblowers' Protection Act may file an action in civil court for injunctive relief, actual damages, or both, within 3 years after the occurrence of the alleged violation. Upon finding in the complainant's favor, the court may order reinstatement of the worker to the previous job, payment of back wages, and reinstatement of benefits, and may award court costs and attorney's fees.

HEALTH AND SAFETY

OCCUPATIONAL SAFETY DIVISION LAW

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-20-1 - 28-20-34

GENERAL SUMMARY: Chapter 20 of the Rhode Island labor laws creates an occupational safety division in the state labor department, and makes that unit responsible for enforcing all laws, regulations and standards pertaining to the occupational safety and health of employees. Among other provisions, the law imposes on all agricultural and non-agricultural employers in the state the duty to furnish each of their employees a job and workplace which are free from recognized safety and health hazards likely to cause death or serious physical harm, and to comply with the specific safety and health codes promulgated under the law's authority which are applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state labor department has adopted **no standards** explicitly applicable to farmworkers or agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety Unit, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

EMPLOYMENT SECURITY ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-42-1 - 28-44-71

GENERAL SUMMARY: The Employment Security Act establishes a fund for the payment of unemployment insurance benefits to temporarily jobless workers who have recent earnings from insured employment and meet other eligibility requirements. Benefits are financed largely by the state's employers, most of whom are obligated to contribute to the fund if they employ one or more workers during the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — On the same terms as most non-agricultural employing units, farm operators and other agricultural establishments that employ one or more workers within any calendar year are required to pay contributions to the employment security fund on their employees' behalf. The amount of an employer's contributions is normally equal to the employer's assigned tax rate, multiplied by the amount of wages paid by the employer during the calendar year, up to a per-worker taxable wage limit. The wage limit is set at 46.5 percent of the average annual wage in covered employment during the prior calendar year; for most employers in 2017 the limit is \$22,400, but for employers in the highest tax rate group, the taxable wage base is \$23,900.

ELIGIBILITY FOR BENEFITS — Like their counterparts in other industries, farmworkers not otherwise disqualified are eligible for unemployment insurance benefits if (1) during the first four of the last five completed calendar quarters preceding the initial claim, they earned minimum insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840), (2) in at least one of the four quarters, they earned at least 200 times the minimum wage (or \$1,920), and (3) their total earnings over the entire four-quarter period amount to at least $1^1/2$ times their earnings in the one quarter when earnings were highest.

Alternatively, workers may qualify if they had base-period earnings equal to at least 3 times the minimum earnings amount noted above, or \$11,520 at the current minimum wage of \$9.60.

In addition, claimants must be physically able to work and available for work, and must have registered for work and continued to report periodically as directed.

AMOUNT OF BENEFITS — The benefit rate payable to an eligible claimant for any week of unemployment is generally defined as 3.85 percent of the claimant's average quarterly wage over the two quarters of the base period when wages were highest; in no case, however, may the benefit rate exceed (1) 57.5 percent of the statewide average weekly wage for the preceding calendar year, or (2) the maximum weekly benefit rate in effect on July 1, 2011, whichever is higher. For any week of only partial unemployment, the claimant is entitled to a payment roughly equal to the weekly benefit rate, minus the week's part-time earnings, minus an amount equal to 1/5 of the individual's weekly benefit rate.

DEPENDENTS' ALLOWANCE — In addition to the basic benefit amount described above, a worker will generally also receive a weekly allowance of \$15 or 5 percent of the worker's benefit rate, whichever is greater, for each dependent child under 18 years of age, but not exceeding 5 such dependents. The total dependents' allowance for any week may not exceed the greater of \$50 or 25 percent of the worker's benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-243-9100). The Department is responsible for determining eligibility for unemployment insurance benefits, payment of benefits, and related appeals. Claims for unemployment compensation may be filed over the telephone, at 401-243-9100, or online at http://www.dlt.ri.gov/ui/fileclaim2.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Employer Tax Section, Division of Taxation, Rhode Island Department of Revenue, Providence, Rhode Island 02908 (401-574-8700). This agency is responsible for the determination of employer liability for UI contributions, and for the collection of contributions on behalf of the Rhode Island Department of Labor and Training.

■ WORKERS' COMPENSATION ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-29-1 - 28-38-25

GENERAL SUMMARY: Under the Workers' Compensation Act, an employee who receives a personal injury, or suffers disablement from an occupational disease, arising out of and in the course of employment is generally entitled to cash compensation from the employer. Moreover, if the injury or illness should result in death, the worker's surviving dependents are normally eligible for death benefits. The Act requires, also, that subject employers promptly provide for reasonable medical and surgical services, hospital care, medicines, and related benefits necessary to cure, rehabilitate or relieve their employees from the effects of job-related injuries or disease.

To meet their liability, every employer subject to the Act must (1) purchase a policy of workers' compensation insurance from a licensed carrier, (2) enroll in a group self-insurance fund, or (3) furnish the state enforcement agency with proof of financial ability to pay workers' compensation benefits directly. Failure by an employer to secure payment of compensation under one of these options is a criminal offense. Furthermore, a worker injured while in the employ of a non-complying employer may sue the employer for damages, and in any such suit the employer is barred from claiming as a defense that the injury resulted from the negligence of the worker or a co-worker, or that the worker had assumed the risks that led to the injury.

The Workers' Compensation Act generally applies to all individuals, partnerships and corporations with one or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers and other agricultural employers who employ 25 or more farmworkers for 13 or more consecutive weeks are generally required to provide workers' compensation coverage to their employees. Employers who meet this workforce threshold, however, have the option of purchasing health and disability insurance covering their farm employees, thereby exempting themselves from the requirements of workers' compensation, provided the health and disability insurance premium exceeds the premium for workers' compensation insurance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-39-1 - 28-41-42

GENERAL SUMMARY: The Rhode Island Temporary Disability Insurance Act creates a state-administered fund for the payment of weekly cash benefits to eligible members of the labor force whose physical or mental condition renders them unable to work. Temporary disability insurance benefits are financed by contributions withheld from employees' wages and forwarded to the fund by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYEE CONTRIBUTIONS — To the same extent and on the same terms as non-agricultural employees, every farmworker employed by a farm operator or other agricultural establishment with one or more employees must contribute an annually determined portion of the worker's earnings (currently 1.2 percent) to the temporary disability insurance fund, up to a wage limit determined each year by the state administering agency (currently \$68,100). The employer is required to withhold contributions from the worker's earnings at the time of payment, and to transmit withheld amounts to the fund at regular intervals.

ELIGIBILITY FOR BENEFITS — Workers who are unemployed and unable to perform their regular or customary work due to a physical or mental condition (including pregnancy) are generally eligible for temporary disability benefits only if all of the following conditions are met:

- (1) During the first four of the last five completed calendar quarters preceding the initial claim, they earned insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840).
- In at least one of the four quarters, they earned at least 200 times the minimum wage (at least \$1,920).
- (3) Their total earnings over the entire four-quarter period amount to at least 1¹/2 times their earnings in the one quarter when earnings were highest.
- (4) The wages earned during the four-quarter base period must have been paid by one or more employers subject to the state unemployment insurance law.
- (5) The claimant must have been unemployed due to illness or other disability for at least 7 consecutive days.

Benefits are not payable for any week with respect to which the worker has received workers' compensation or unemployment insurance benefits.

AMOUNT OF BENEFITS — For any week of disability, an eligible claimant is normally entitled to a benefit rate equal to 4.62 percent of the worker's earnings in the one quarter of the four-quarter base period when earnings were highest, but not more than 85 percent of the statewide average weekly wage among workers covered by the state unemployment insurance program in the preceding calendar year.

DEPENDENTS' ALLOWANCE — A worker's temporary disability payment will generally be supplemented each week by \$10 or 7 percent of the benefit rate, whichever is greater, for each of the worker's dependent children under 18 years of age, but for not more than 5 such dependents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420). The Department administers all aspects of the temporary disability insurance program, from collection of contributions, to payment of benefits. There are substantial penalties for an employer's failure to forward contributions to the state for proper credit to the employee's account, and any worker who believes contributions are not being correctly withheld, remitted or reported should promptly contact the Department. Claims for disability benefits may be filed online, at https://uiclaims.ri.gov/tdionline/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT (TEMPORARY CAREGIVER INSURANCE)

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-41-34 - 28-41-40

GENERAL SUMMARY: In addition to providing for weekly cash payments to workers unemployed due to injury or illness, the Rhode Island Temporary Disability Insurance Act provides up to 4 weeks of caregiver benefits for workers who take time off work to care for a seriously ill family member, or to bond with a newborn or adopted child during the first 12 months of parenting. Temporary caregiver insurance benefits are financed by contributions withheld from employees' wages and forwarded to the fund by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYEE CONTRIBUTIONS — To the same extent and on the same terms as non-agricultural employees, every farmworker employed by a farm operator or other agricultural establishment with one or more employees must contribute an annually determined portion of his or her earnings (currently 1.2 percent) to the temporary disability/caregiver insurance fund, up to a wage limit determined each year by the state administering agency (currently \$68,100). The employer is required to withhold contributions from the worker's earnings at the time of payment, and to transmit withheld amounts to the fund at regular intervals.

ELIGIBILITY FOR BENEFITS — Workers who take time off work to care for a seriously ill family member, or to bond with a newborn or adopted child during the first 12 months of parenting, are generally eligible for temporary caregiver benefits only if all of the following conditions are met:

- (1) During the first four of the last five completed calendar quarters preceding the initial claim, they earned insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840).
- In at least one of the four quarters, they earned at least 200 times the minimum wage (at least \$1,920).
- (3) Their total earnings over the entire four-quarter period amount to at least $1^{1}/2$ times their earnings in the one quarter when earnings were highest.
- (4) The wages earned during the four-quarter base period must have been paid by one or more employers subject to the state unemployment insurance law.
- (5) The claimant must have been off the job for a waiting period of at least 7 consecutive days.

Benefits are not payable for any week with respect to which the worker has received workers' compensation or unemployment insurance benefits.

AMOUNT OF BENEFITS — An eligible claimant is normally entitled to a weekly benefit equal to 4.62 percent of the worker's earnings in the one quarter of the four-quarter base period when earnings were highest, but not more than 85 percent of the statewide average weekly wage among workers covered by the state unemployment insurance program in the preceding calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420). The Department administers all aspects of the temporary caregiver insurance program, from collection of contributions, to payment of benefits. There are substantial penalties for an employer's failure to forward contributions to the state for proper credit to the employee's account, and any worker who believes contributions are not being correctly withheld, remitted or reported should promptly contact the Department. Claims for caregiver benefits may be filed online, at https://uiclaims.ri.gov/tdionline/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

O RHODE ISLAND STATE LABOR RELATIONS ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-7-1 - 28-7-49

GENERAL SUMMARY: The Rhode Island State Labor Relations Act explicitly grants most employees the right to organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities free from interference, restraint or coercion. The Act prohibits employers from committing certain specified unfair labor practices and establishes procedures for reporting and resolving complaints alleging any such conduct. The state agency created to administer and enforce the Act is also authorized to settle controversies concerning representation, through supervised secret-ballot elections or other appropriate means.

PROVISIONS APPLICABLE TO AGRICULTURE: The Rhode Island State Labor Relations Act does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Rhode Island State Labor Relations Board, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE CONTROL ACT

STATUTORY CITATION: 23 R.I. Gen. Laws §§ 23-25-1 - 23-25-39

RELATED REGULATIONS: R.I. Code R. 12 020 013, Rules 1 – 28

GENERAL SUMMARY: The Pesticide Control Act regulates the labeling, distribution, sale, storage, transportation, use, application and disposal of pesticides. Among the Act's provisions with an immediate bearing on the safety of agricultural workers are those which require the licensing and certification of applicators, define unlawful acts involving the use of pesticides, impose recordkeeping duties on certain applicators, and authorize administrative adoption of other pesticide safeguards.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION —

Commercial Applicators — No one may apply restricted-use pesticides on someone else's land unless the application is performed by or under the supervision of a person licensed by the state. Moreover, in order to lawfully acquire, possess, apply or supervise the application of certain restricted-use pesticides, a person generally must be certified, which requires passing a written examination to demonstrate particular knowledge of pesticides and their effects and establish the applicant's competence to handle such products safely and effectively.

Certified Private Applicators — Farm operators who intend to apply restricted-use pesticides to their own land or crops, and farmworkers who apply restricted pesticides to the land or crops of their employers, must be certified as certified private applicators by the state. Like their commercial counterparts, certified private applicators must pass a test evidencing knowledge and competency to handle and use pesticides in their normal operations or for any special uses for which they are being examined.

FINANCIAL RESPONSIBILITY — As a condition for certification, commercial pesticide applicators must obtain a performance bond in the amount of \$50,000 per job, or purchase an insurance policy covering bodily injury (\$50,000 each occurrence, \$100,000 aggregate) and property damage (\$50,000).

APPLICATOR RECORDKEEPING — With respect to each application of pesticides, commercial applicators are required to make and retain for at least 2 full calendar years a record of, among other information, the name and EPA registration number of the product used, the formulation and quantity used, the purpose of the treatment, and the date and place of application. Certified private applicators must make and retain for at least 2 full calendar years a record of essentially the same information, but only with respect to applications of restricted-use and state limited-use pesticides.

PROHIBITED PRACTICES — The following acts, among many others, are both unlawful and grounds for denial, suspension or revocation of a pesticide applicator's license or certification:

- Using a pesticide in a manner inconsistent with label instructions.
- Operating faulty or unsafe equipment.
- (3) Operating in a faulty, careless or negligent manner.
- (4) Refusal or failure to keep required records or make required reports.
- (5) Using pesticides without being licensed or certified for such use, or without direct supervision by a properly licensed or certified applicator.
- (6) Detaching, altering or defacing any part of a pesticide label.
- (7) Storing or disposing of a pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781). Representatives of the Department have the right to enter public and private property for the purpose of inspecting pesticide application equipment, sampling pesticides or soil, inspecting storage and disposal areas, and observing pesticide applications. The Department has the express power to bring legal action to stop violations or threatened violations of the Act and the associated regulations. After notifying the party being charged and affording due opportunity to be heard, the Department may assess a civil penalty of up to \$10,000 against anyone who violates these provisions. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDE CONTROL ACT (AERIAL APPLICATION)

STATUTORY CITATION: 23 R.I. Gen. Laws §§ 23-25-1 – 23-25-39

RELATED REGULATIONS: R.I. Code R. 12 020 013, Rules 19 and 21

GENERAL SUMMARY: Under rulemaking authority in the Pesticide Control Act, the state environmental management department has adopted rules explicitly applicable to the aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — Applicants for licensing or certification who intend to apply pesticides from an aircraft must (1) post a \$100,000 performance bond, or (2) obtain a liability insurance policy with bodily injury coverage limits of at least \$100,000 per occurrence and \$200,000 aggregate, and property damage coverage of at least \$100,000.

PRIOR AUTHORIZATION OF AERIAL APPLICATIONS — No one may apply any pesticide by aircraft without prior written approval from the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

• HAZARDOUS SUBSTANCES RIGHT-TO-KNOW ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-21-1 - 28-21-21

GENERAL SUMMARY: The Hazardous Substances Right-to-Know Act requires employers to make available to their employees certain information about the toxic and hazardous substances to which they may be exposed on the job, and to provide employees with an annual training and education program regarding the risks involved and appropriate safety measures. The Act applies to virtually all public and private employment in the state, including employment in the agricultural sector.

SPECIFIC TERMS AND CONDITIONS

EMPLOYER DUTIES -

Chemical Identification List — Every employer whose employees are exposed on the job to any toxic or hazardous substance must maintain and make available at the workplace a complete list of all such substances and make the list accessible to the workers during all hours of operation. The list must include the common and trade names of each material, cross-referenced to its chemical name.

Material Safety Data Sheets — For each item on the chemical identification list, the employer is responsible for obtaining from the manufacturer, supplier or distributor a material safety data sheet, which contains such information as the substance's chemical and common names, its physical and chemical characteristics, its physical hazards, its health hazards, the primary exposure routes, permissible exposure limits, precautions for safe handling and use, control measures, and emergency first-aid procedures.

EMPLOYEE RIGHTS — Within 3 working days (excluding weekends and holidays) after a worker's request to examine or copy the chemical identification list, or the material safety data sheet for any substance on the list, the employer must make such information available to the worker. If the requested information has not been received within the prescribed 3-day timeframe, the worker may then refuse to work with or be exposed to the substance, free from disciplinary action or discrimination.

TRAINING AND EDUCATION — Prior to an employee's initial assignment and annually thereafter, the employer is required to provide a program of training and education to advise the worker about all toxic or hazardous materials to which the worker may be exposed in the course of employment. Training must be based on information contained in the relevant material safety data sheets and on other available intelligence, and must address both the nature of the hazards involved and appropriate work practices, protective measures and emergency procedures.

EMPLOYMENT THROUGH CONTRACTORS — Whenever workers are exposed to toxic or hazardous substances while employed under a contract arrangement at a workplace not owned or operated by the contractor (implicitly including seasonal farmworkers performing services on a farm through a farm labor contractor), it is the contractor's responsibility to respond to worker requests for information and to provide the required training and education. However, before work commences, the employer on whose premises services will be performed must provide the contractor with the applicable chemical identification list and corresponding material safety data sheets.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to retaliation may take civil action against the violator at any time within 180 days after the act occurs, or within 90 days after first becoming aware of the violation. The worker may elect instead to notify the Department, which has authority in such cases to order the violator to reimburse the worker for any monetary losses, plus interest, stemming from the retaliatory act and to take other appropriate corrective action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Right-to-Know Unit, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8570). A worker who has been denied a request for information or has been deprived of training in violation of the Right-to-Know Act may file a complaint with the Department, which must attempt to effect compliance by the employer. In addition to other liability, an employer who willfully violates the requirements of the Act is subject to an administrative fine of up to \$5,000 for every day the violation continues.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

RHODE ISLAND MINIMUM WAGE ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-12-1 - 28-12-25

GENERAL SUMMARY: The Rhode Island Minimum Wage Act entitles most employees in the state to a wage no lower than \$9.60 an hour, and requires all employers subject to any provision of the Act to keep a record of the wage rates, hours, earnings and related payroll data on each of their employees and to post a summary of the law at the workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: Like employees in most other industries, farmworkers in Rhode Island are generally entitled to receive at least \$9.60 for every hour of work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550). This agency is responsible for enforcement of the Minimum Wage Act and has authority to investigate any claim submitted by a worker aggrieved by an alleged violation. As such, the Department has authority to enter any workplace, inspect payroll and other employment records, and question employees for the purpose of determining compliance. At a worker's request, the Department may take an assignment of the worker's wage claim in trust and bring legal action to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the state labor department, a person who has not received the minimum wage may take action against the employer involved in civil court, using a private attorney or public legal service provider. In addition to recovering the amount of the unpaid wages, the worker may be entitled to compensatory damages and liquidated damages up to *two times* the amount of unpaid wages, plus attorney fees and court costs. Court action to recover unpaid wages is barred unless it is filed within 3 years after the date the wages were due.

O RHODE ISLAND MINIMUM WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-12-1 – 28-12-25

GENERAL SUMMARY: Aside from its hourly pay guarantee, the Rhode Island Minimum Wage Act requires most employers to pay each employee not less than 1 1/2 times the regular hourly wage for each hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime pay provision of the Minimum Wage Act **does not apply** to anyone employed in agriculture, explicitly including greenhouse crops, fruit and vegetable crops, herbaceous crops, sod crops, viticulture, viniculture, floriculture, feed for livestock, forestry, dairy farming, aquaculture, the raising of livestock, fur-bearing animals, poultry and eggs, bees and honey, mushrooms, and nursery stock.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-14-1 - 28-14-31

GENERAL SUMMARY: Chapter 14 of the Rhode Island labor laws regulates the payment of wages, including such matters as paydays, medium of pay, pay at termination, earnings statements, and recordkeeping. The wage payment laws apply to all employment in the state, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must establish a regular payday, and workers are entitled to written notice of any change in the scheduled payday at least 3 paydays in advance. Workers must generally be paid weekly (unless compensation is fixed at a bi-weekly, semi-monthly, monthly or yearly rate), and each payday normally must fall within 9 days of the end of the payroll period in which the wages were earned.

MEDIUM OF PAY — Employers are not permitted to pay wages in any medium other than (1) in lawful U.S. money, (2) by check, convertible into cash on demand and at full face value, or (3) by electronic transfer to the employee's bank account or payroll card. Employers are permitted to pay wages by means of a payroll card only if the employee is able to make at least one withdrawal from the payroll card account per pay period without charge, up to the full amount of the net wages for the pay period.

FINAL WAGES — Whenever a worker quits the job or is discharged by the employer, the worker's final wages are payable on the next regular payday.

EARNINGS STATEMENTS — On every regular payday, the employer is obligated to furnish the worker with a statement showing the hours worked during the pay period and a record of the deductions made from the worker's pay and the basis or reason for each such deduction.

RECORDKEEPING — Every employer is required to keep a true and accurate record of the hours worked and wages paid to each employee for each pay period. Payroll records must be kept on file for at least 3 years after the date to which they pertain.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550). Authorized representatives of the Department have the right to enter any place of employment for the purpose of inspecting required employment records and otherwise checking compliance with the wage payment laws. At any time within 3 years from the time services were rendered, a worker who does not receive all or part of the wages earned for such services may file a claim with the Department, which is authorized to take action to collect it if it appears valid and enforceable. Employers found to have violated these provisions are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the state labor department, a person who has not received wages in accordance with these provisions may take action against the employer involved in civil court, using a private attorney or public legal service provider. In addition to recovering the amount of the unpaid wages, the worker may be entitled to compensatory damages and liquidated damages up to *two times* the amount of unpaid wages, plus attorney's fees and court costs. As is the case with an administrative claim, court action to recover unpaid wages is barred unless the claim is filed within 3 years after the date the wages were due.

PERSONAL INCOME TAX LAW

STATUTORY CITATION: 44 R.I. Gen. Laws §§ 44-30-1 – 44-30-100

RELATED REGULATIONS: R.I. Code R. 46 050 010

GENERAL SUMMARY: Chapter 30 of the state tax laws imposes a tax on personal income, which extends to wages of residents and non-residents employed in Rhode Island. In general, every employer who (1) maintains an office or transacts business in the state, and (2) pays any wages which are subject to federal income tax withholding, must deduct and withhold from each employee's earnings an amount calculated to equal the worker's year-end state income tax liability with respect to such wages.

The employer is required to submit a withholding tax return and forward withheld taxes to the state periodically, and by January 31 of the succeeding year must furnish each employee from whom state income taxes were withheld an annual information statement showing the amount of wages paid and the amount deducted as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Rhode Island must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Taxation, Rhode Island Department of Revenue, Providence, Rhode Island 02908 (401-574-8922).

South Carolina

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	Compulsory School Attendance	•	Compulsory Attendance Law	649
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	Fair Employment Practices	•	South Carolina Human Affairs Law	650
	Wage Discrimination			
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	Workplace Safety	•	Occupational Health and Safety Law	651
Health and	General Workplace Sanitation			
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	Other			
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nousing	Access and Visitation Rights			
	Other			
	Unemployment Insurance	•	South Carolina Department of Employment and Workforce Law	651
	Workers' Compensation	0	South Carolina Workers' Compensation Law	652
Insurance and Compensation	Disability Insurance			
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	Other			
	Private Employment Agency Regulation	0	Emigrant Agency Licensing Law	653
Labor Contractors	Farm Labor Contractor Registration			
and Worker Recruitment	Recruitment Standards			
ACCIUMINENT ,	Other			

South Carolina

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
Labor	General Labor Relations			
Relations and Collective	Agricultural Labor Relations			
Bargaining	Other			
	General Application Standards	•	South Carolina Pesticide Control Act	653
	Aerial Application Standards	•	South Carolina Pesticide Control Act (Aerial Application)	654
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Agricultural Chemicals	Hazard Communication	•	Occupational Health and Safety Law (Hazard Communication)	654
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	General Employee Transportation Safety			
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	Minimum Wage			
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Wages and Hours	Wage Payment and Collection	•	Wage Payment Law	656
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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: S.C. Code §§ 41-13-5 - 41-13-60

RELATED REGULATIONS: S.C. Code Regs. 71-3100 – 71-3111

GENERAL SUMMARY: Chapter 13 of the South Carolina labor statutes makes it unlawful for any employer to engage in oppressive child labor practices, and confers broad authority on the state labor director to adopt specific rules that effectuate that general statement of policy, and that are not more restrictive than the applicable federal child labor regulations.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE RESTRICTIONS — In contrast with the 14-year minimum age standard prescribed by the labor commissioner for most non-agricultural employment, children as young as 12 years of age are permitted to work in agriculture, provided employment occurs outside local school hours and with the consent of the child's parent or person standing in the place of the parent. Minors 14 years old and over may work in non-hazardous agricultural occupations outside school hours with no further restrictions.

HOUR LIMITATIONS — The regulatory provisions curbing the daily and weekly working hours of minors under 16 in most non-agricultural pursuits and limiting the time of day during which such employment is authorized *do not apply* to employment in agriculture.

HAZARDOUS AGRICULTURAL OCCUPATIONS — The administrative regulations generally prohibit the employment of anyone under the age of 16 in the following agricultural activities, among others:

- (1) Operating a tractor of over 20 horsepower.
- (2) Operating or helping to operate power harvesting equipment such as corn pickers, cotton pickers, grain combines, hay mowers, hay balers or potato diggers.
- (3) Working from a ladder or scaffold at a height over 20 feet.
- (4) Driving a vehicle transporting passengers, or riding on a tractor as a passenger or helper.
- (5) Handling or applying certain agricultural chemicals identified by the word "Poison" or "Warning" on the label.
- (6) Transporting, transferring or applying anhydrous ammonia.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-4470). Agents of the Department may enter any establishment in the state where minors are employed and may have access to all records relevant to the enforcement of the child labor law. The Department is authorized to prosecute any employer found to be employing a minor in violation of the law or the associated regulations. Administrative fines for violations may range from \$300 to \$5,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: S.C. Code §§ 59-65-10 - 59-65-90

GENERAL SUMMARY: All parents or guardians in South Carolina generally must see that their children or wards who are in the age group 5 to 16 years (inclusive) attend an approved public, private, parochial or denominational school, or an approved alternative educational program. Among other, more narrow exceptions, the law exempts from attendance any child who has completed the 8th grade and who is determined by a court to be legally and gainfully engaged in employment necessary for the maintenance of the child's household.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies without regard to the occupational classification of the child or the child's parent or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the board of trustees of each of the state's local school districts. If not remedied through the informal efforts of the district's attendance supervisor, non-attendance by a child in the affected age group may be reported by the board to the appropriate juvenile court. Any parent or guardian who neglects to enroll a child in school, or refuses to make the child attend as required, is subject to a fine of up to \$50 or a jail term of up to 30 days for each day the child remains absent.

CIVIL RIGHTS

SOUTH CAROLINA HUMAN AFFAIRS LAW

STATUTORY CITATION: S.C. Code §§ 1-13-10 - 1-13-110

GENERAL SUMMARY: The South Carolina Human Affairs Law declares unlawful the practice of discrimination against individuals because of race, religion, color, sex, age, national origin, or disability, and defines specific employment-related acts that are prohibited as unlawfully discriminatory. The Human Affairs Law, which generally applies to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more different calendar weeks in the current or preceding calendar year, creates a state commission whose purpose it is to prevent and eliminate such practices.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL ACTS — With numerous but very narrow exceptions, it is forbidden for an employer subject to the law to engage in any of the following practices, among others:

- (1) To refuse to hire a job applicant, to dismiss an employee from the job, or in any other manner to discriminate against a person with respect to compensation or the terms, conditions or privileges of employment, because of the person's race, religion, color, sex, age (over 40), national origin, or disability.
- (2) To limit, segregate or classify employees or job applicants in any way which would tend to deprive an individual of employment opportunities or otherwise affect employment status on the grounds of race, religion, color, sex, age, or national origin.
- (3) To publish or circulate a job notice or employment advertisement indicating a preference, limitation, specification or discrimination based on race, color, religion, sex, national origin or disability.

Employment agencies and labor organizations are bound by comparable anti-discrimination provisions.

COMPLAINTS — Within 180 days after the occurrence of an act perceived to be illegal under the Human Affairs Law, an individual aggrieved by the incident may file a complaint with the state enforcement agency. The agency must respond with an investigation of the facts relating to the allegations in the complaint, and if the evidence gathered indicates the employer or other respondent named in the complaint has, in fact, committed a violation, the agency must issue such a finding and attempt to negotiate a conciliation agreement with the respondent. In the event an informal agreement is not reached within 30 days of its finding, the agency may file suit against the respondent in circuit court. A determination by the court that the respondent intentionally engaged in an unlawful employment practice charged in the complaint is grounds for issuance of an order that the respondent cease such practice and take prescribed corrective action, including reinstatement or hiring of the complainant, with or without back pay, as the court deems appropriate.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Human Affairs Commission, Columbia, South Carolina 29201 (803-737-7800; toll-free 800-521-0725). As outlined above, the Commission has the power to investigate any complaint of employment discrimination under the Human Affairs Law, and to bring legal action against the respondent when investigation reveals evidence of a violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — If the Commission has not commenced action against or entered into a conciliation agreement with the respondent within 180 days from the filing of a complaint by a worker, or if the Commission has dismissed the charges, the worker may bring suit against the respondent in circuit court, using a private attorney or public legal service provider. Civil action generally must be filed no later than one year after the date of the alleged violation, or within 120 days of the date of dismissal of the complaint, whichever is earlier. Court action brought by a worker automatically bars court action by the Commission on the same charge. Likewise, once the Commission files suit in a case, the worker may not take legal action against the respondent with respect to the same violation.

HEALTH AND SAFETY

OCCUPATIONAL HEALTH AND SAFETY LAW

STATUTORY CITATION: S.C. Code §§ 41-15-80 - 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 8

GENERAL SUMMARY: Chapter 15 of the state labor laws regulates occupational health and safety in South Carolina, in part by (1) requiring employers to provide their workers with employment and a place of employment which are free from recognized hazards that could lead to death or serious injury, and (2) empowering the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor director has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. South Carolina's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682). Representatives of South Carolina OSHA may enter any workplace at any reasonable time to inspect working conditions, examine records, question the employer and employees, and take other steps necessary to check and enforce compliance with the occupational health and safety law and the corresponding regulations. If routine inspection or investigation of a specific complaint reveals evidence of a violation, the agency may cite the employer and set a timetable for corrective action. Shortly after issuing a citation, the agency will notify the employer of the administrative penalty to be imposed, if any. Certain serious and willful violations may also be prosecuted as criminal offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INSURANCE AND COMPENSATION

■ SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE LAW

STATUTORY CITATION: S.C. Code §§ 41-27-10 - 41-41-50

GENERAL SUMMARY: The South Carolina Department of Employment and Workforce Law requires most employers in the state to pay wage-based contributions to the state unemployment compensation fund, which is created for the purpose of financing cash payments to individuals who are temporarily out of work and have sufficient wage credits from recent insured employment to qualify for benefits. With some exceptions, the law requires employers to pay unemployment contributions if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 or more different calendar weeks in the current or preceding calendar year employed at least 10 workers in agricultural labor, must pay contributions to the state unemployment compensation fund on their behalf. With respect to each covered employee, a subject employer normally pays as contributions an annually assigned percentage of the employee's wages, up to a calendar-year wage limit of \$14,000 per worker.

ELIGIBILITY FOR BENEFITS — An unemployed worker in any industry is generally eligible to receive unemployment insurance benefits only if the state administering agency finds that the worker (1) has made a claim for benefits, (2) has registered for work at a state employment office and continued to report to the office periodically thereafter, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, (5) was separated from his or her most recent job through no fault on the worker's part, and (6) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned \$4,450 or more from UI-covered employment, at least \$1,092 of which must have been received in the one quarter in which wages were highest, and earned total insured wages over the four-quarter base period equal to or exceeding 1:/2 times the amount earned in the peak quarter.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is defined as 50 percent of the worker's average weekly wage for insured employment during the high-earnings quarter of the four-quarter base period. In no instance, however, may the weekly benefit amount be less than \$42 or greater than 2/3 of the statewide average weekly wage. For any week of unemployment, an eligible claimant is entitled to a payment equal to the weekly benefit amount, minus that part of any wages earned from part-time employment that week which exceeds 1/4 of the worker's weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor, is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Unemployment Insurance Division, South Carolina Department of Employment and Workforce, Columbia, South Carolina 29202 (803-737-2546).* This agency has exclusive responsibility for the state's unemployment insurance program, and thus has control over determinations regarding employer liability for contributions and worker eligibility for benefits. UI claims may be filed online, at mybenefits.dew.sc.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SOUTH CAROLINA WORKERS' COMPENSATION LAW

STATUTORY CITATION: S.C. Code §§ 42-1-10 - 42-19-50

GENERAL SUMMARY: The South Carolina Workers' Compensation Law makes most employers in the state who have 4 or more employees liable for the payment of compensation for any employee whose personal injury or death results from a job-related accident or whose disablement is due to an occupational disease. Subject employers are required to insure their liability through a prescribed workers' compensation insurance policy, or by furnishing the state enforcement agency with evidence of their financial ability to pay compensation directly. In addition to cash compensation to the worker or the worker's surviving dependents, the employer is also obligated to cover the cost of medical, surgical and hospital services and related expenses stemming from an employee's job injuries or occupational disease.

In return for accepting workers' compensation coverage and insuring the payment of compensation, the employer is generally relieved of all further liability in connection with injury to his or her employees. On the other hand, an employer who declines coverage may be sued for damages by a worker injured on the job, or by the dependents of such a worker, and in any such action the employer may not claim as a defense in court that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risk of the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer elects voluntary coverage, the Workers' Compensation Law does not apply to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Workers' Compensation Commission, Columbia, South Carolina 29202.

LABOR CONTRACTORS AND WORKER RECRUITMENT

○ EMIGRANT AGENCY LICENSING LAW

STATUTORY CITATION: S.C. Code §§ 16-17-610 - 16-17-630

GENERAL SUMMARY: With few exceptions, the state criminal statutes deem it a misdemeanor and an offense against public policy for anyone (other than the South Carolina Department of Employment and Workforce) to solicit or hire laborers in South Carolina for employment in another state without first obtaining an emigrant agent's license from the state and each county in which the agent intends to solicit or hire workers. The only prerequisite for issuance of a state license is payment of an annual license fee of \$500 for each county of intended operation; county licensing requires payment of an annual fee of \$2,000 in each such jurisdiction.

PROVISIONS APPLICABLE TO AGRICULTURE: The emigrant agent licensing law **does not apply** to anyone soliciting or hiring workers in South Carolina for agricultural employment in an adjacent state, as long as the neighboring state places no limitation on the solicitation or employment of farm labor by South Carolina employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Office of the State Treasurer, Columbia, South Carolina 29201. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — County treasurers.

PESTICIDES AND AGRICULTURAL CHEMICALS

SOUTH CAROLINA PESTICIDE CONTROL ACT

STATUTORY CITATION: S.C. Code §§ 46-13-10 – 46-13-240

RELATED REGULATIONS: S.C. Code Regs. 27-1070 – 27-1085

GENERAL SUMMARY: The South Carolina Pesticide Control Act regulates the registration, distribution, sale and use of pesticides in the state. Among other provisions, the Act requires the certification and licensing of certain pesticide applicators, requires evidence of financial responsibility as a precondition on licensing of commercial applicators, authorizes certain recordkeeping regulations, and imposes restrictions on the conduct of licensees and certificate-holders.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — It is unlawful for anyone to use or supervise the use of any restricted-use pesticide without a private, commercial or non-commercial applicator license issued by the agency responsible for administration of the Pesticide Control Act. To qualify for a license, commercial applicators and most agricultural producers must also be certified, which requires, in part, that the applicant pass an examination or otherwise demonstrate competency with respect to the use of the pesticides covered by their certification prior to purchase or use of the products involved. Licensing also necessitates payment of an annual license fee.

FINANCIAL RESPONSIBILITY — Before a commercial applicator license may be granted, the applicant must furnish evidence of financial responsibility, in the form of a surety bond, liability insurance or comparable security ranging from \$50,000 to \$100,000, protecting persons who may suffer legal damages as a result of the applicant's operations.

RECORDKEEPING — Under the Act's rulemaking authority, the administering agency has adopted regulations requiring each licensed commercial applicator to keep a record of each application of any restricted-use pesticide. The record must include the quantity of the product applied, the chemical and common names of the active ingredient, the pest or purpose for which the pesticide was applied, and the date and place of application.

PROHIBITED PRACTICES — Among many others, each of the following acts is regarded as a violation of the law and grounds for denial, suspension or revocation of a license and certification:

- Knowingly operating faulty or unsafe equipment.
- Applying pesticides in a grossly negligent manner.
- (3) Refusing or failing to keep required records.
- (4) Applying pesticides without the category of license or certification required by the Act.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164). This agency is responsible for testing, licensing and certifying pesticide applicators in the state, and for enforcing their adherence to the rules and regulations applicable to their operations. With a properly executed warrant, representatives of the agency are authorized to enter any premises where pesticides are stored or used, to examine records, take samples and perform related investigatory activities. Enforcement officers may issue a stop-use order against the owner or custodian of a pesticide or pesticide device whenever there is reasonable cause to believe it is being used in violation of these provisions. The agency is also empowered to assess a civil money penalty for any such infraction. Willful violation may lead to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SOUTH CAROLINA PESTICIDE CONTROL ACT (AERIAL APPLICATION)

STATUTORY CITATION: S.C. Code §§ 46-13-10 – 46-13-240

RELATED REGULATIONS: S.C. Code Regs. 27-1070 – 27-1085

GENERAL SUMMARY: Under the rulemaking authority of the South Carolina Pesticide Control Act, the administering agency has adopted licensing and use standards explicitly applicable to aerial pesticide operations.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Like their counterparts operating on the ground, all persons who apply restricted-use pesticides by aircraft must either be licensed and certified by the administering agency, or work under the direct supervision of a certified licensed applicator. Licensing and certification require successful completion of a basic examination covering general subject matter and a specific test for aerial operators.

AIRCRAFT LOADING ZONES — Areas where pesticide aircraft are loaded must be adequately marked, and must also be posted with general warnings that toxic pesticides or pesticide containers may be stored in the area and that pesticides may have been spilled on the ground within the loading zone.

APPLICATION DISCLOSURES — With respect to each application of a pesticide, aerial applicators must provide their customers with a statement containing, at a minimum, (1) the name and address of the spraying firm or company, (2) the identity of the target pest or purpose of the pesticide application, (3) the chemical or common name of the pesticide's active ingredient, and (4) the name of the responsible licensed applicator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164). This agency is responsible for testing, licensing and certifying aerial operators and other pesticide applicators in the state, and for enforcing their adherence to the rules and regulations applicable to their operations. Enforcement officers may issue a stop-use order against the owner or custodian of a pesticide or pesticide device (including any aircraft used in the application of pesticides) whenever there is reasonable cause to believe it is being used in violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ OCCUPATIONAL HEALTH AND SAFETY LAW (HAZARD COMMUNICATION)

STATUTORY CITATION: S.C. Code §§ 41-15-80 - 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 6

GENERAL SUMMARY: The occupational health and safety law authorizes the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor director has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. South Carolina's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682). Representatives of South Carolina OSHA may enter any workplace at any reasonable time to inspect working conditions, examine records, question the employer and employees, and take other steps necessary to check and enforce compliance with the hazard communication requirements.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ OCCUPATIONAL HEALTH AND SAFETY LAW (ANHYDROUS AMMONIA)

STATUTORY CITATION: S.C. Code §§ 41-15-80 - 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 6

GENERAL SUMMARY: The occupational health and safety law authorizes the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor director has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. South Carolina's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

SUNDAY LABOR LAWS

STATUTORY CITATION: S.C. Code §§ 53-1-5 - 53-1-160

GENERAL SUMMARY: With various and sundry exceptions, it is unlawful and deemed a public nuisance for anyone to engage in work or labor, or to employ others to engage in work or labor, on Sunday before the hour of 1:30 p.m.

PROVISIONS APPLICABLE TO AGRICULTURE: The Sunday labor laws **do not apply** to farming operations necessary for the preservation of agricultural commodities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by state and local law enforcement agencies, through prosecution in the criminal courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAW

STATUTORY CITATION: S.C. Code §§ 41-10-10 - 41-10-110

GENERAL SUMMARY: Chapter 10 of the state labor statutes governs the payment of wages in South Carolina, in part by establishing certain notification and recordkeeping requirements, prescribing allowable methods of payment, restricting deductions, and limiting the waiting time for final wages. Except with respect to domestic labor in private homes, which is exempt, the wage payment law applies to all employers with 5 or more employees at any one time during the preceding 12 months.

SPECIFIC TERMS AND CONDITIONS

NOTIFICATION — Either through use of individual written statements or by posting at the workplace, subject employers must notify each employee at the time of hiring as to the hours and wages agreed upon, the time and place of payment, and the deductions to be made from the worker's pay. Any change in these terms must be made in writing at least 7 calendar days before it becomes effective.

RECORDKEEPING — Employers must make, and retain for 3 years, a record of the name and address of each employee, the employee's wages each payday, and the deductions made from each payday's earnings.

PAY STATEMENTS — Every employer subject to the law is obligated to furnish each worker with an itemized statement showing the worker's gross pay and deductions for each pay period.

MEDIUM OF PAYMENT — In general, employers are not permitted to pay wages in any medium other than (1) lawful U.S. money, (2) negotiable warrant or check, or (3) direct deposit to a federally insured financial institution. If the employer uses direct deposit, the worker must be allowed at least one free withdrawal per pay period.

DEDUCTIONS — Employers may not withhold or divert any portion of an employee's wages unless required or permitted to do so by state or federal law, or pursuant to the notification described above.

FINAL WAGES — Whenever a worker is terminated from the payroll, for whatever reason, the employer generally must pay all wages due within 48 hours of termination or by the next regular payday, which may not exceed 30 days.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-4470). Upon receipt of a complaint from a worker alleging a violation of the wage payment law, the Department may question the employer, inspect payroll records, and take other appropriate action to investigate the complaint. If there is evidence of a violation, the Department must attempt to resolve the issues informally and may assess a civil money penalty against the offending employer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In case of an employer's failure to pay wages as required by these provisions, a worker may recover in a civil action an amount equal to *three times* the full amount of the unpaid wages, together with court costs and attorney's fees. Civil action to recover unpaid wages must be commenced within 3 years after the wages become due.

AGRICULTURAL LIEN LAWS

STATUTORY CITATION: S.C. Code §§ 29-13-10 - 29-13-130

GENERAL SUMMARY: South Carolina's lien laws affirm the right of farmworkers to a lien against the crops of their employers in the event the workers fail to receive full compensation for their labor.

SPECIFIC TERMS AND CONDITIONS: Laborers who perform services in the production of any crop, whether for a share of the crop or for wages, are entitled to a lien on the crop to the extent of the amount due them for such labor. The lien of a farmworker or sharecropper is second in priority only to the landowner's lien for unpaid rent.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforceable through the courts. Any worker who has not received full compensation for his or her labor on a crop may enforce the agricultural laborers' lien in a civil action, utilizing private legal counsel or a public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ INCOME TAX WITHHOLDING LAW

STATUTORY CITATION: S.C. Code §§ 12-8-10 – 12-8-2040

GENERAL SUMMARY: Every person, firm or other entity paying — or expecting to pay — at least \$1,000 a year in wages, both to South Carolina residents and to non-residents performing services in South Carolina, is required to deduct and withhold from such wages an estimated income tax determined in accordance with tables issued by the state. In general, employers must file a report with the state each calendar quarter and must remit withheld state taxes at the same time that federal withholding taxes are due. No later than January 31 of the succeeding year, the employer must provide each employee with a statement showing the employer's name and address, the worker's name, address and Social Security number, the total amount of wages paid, and the total amount deducted and withheld as state income tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the term "wages" as used in these provisions does not include remuneration paid for agricultural services, farm operators and farmworkers in South Carolina are **exempt** from state income tax withholding, provided the wages involved are for work performed on the farm.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — South Carolina Department of Revenue, Columbia, South Carolina 29210 (803-898-5000; toll-free 844-898-8542).

South Dakota

	South Buildta				
Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page	
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South Dakota

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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liouis	Agricultural Liens			
	Income Tax Withholding			
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: S.D. Codified Laws §§ 60-12-1 - 60-12-14

GENERAL SUMMARY: The child labor laws of South Dakota prescribe minimum ages for employment in certain trades and industries, limit the working hours of minors under 16, authorize issuance of work permits allowing minors to engage in otherwise prohibited employment, and impose sanitary standards on certain establishments where children are employed.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The provision in the child labor laws which sets a minimum age of 14 for lawful employment in factories, workshops and mines, and in mercantile establishments during school hours, *does not apply* to employment in agriculture or to any other form of employment not explicitly covered.

WORKING HOURS — In general, unemancipated minors under the age of 16 are prohibited from working (1) for more than 4 hours on any school day or more than 8 hours on any non-school day, (2) for more than 20 hours in any school week or more than 40 hours in any non-school week, and (3) after 10:00 p.m. on any night before a school day.

Exception — There are no hours or time-of-day restrictions on minors roguing or detasseling hybrid seed corn on a non-school day or during a non-school week.

WORK PERMITS — In agriculture and any other industrial or occupational area, if employment of a minor who would otherwise be barred from working is necessary for his or her support, or for the support of the minor's family, the enforcement agency may issue a permit authorizing employment during the hours specified on the permit.

SANITATION — The provision obligating the operator of any factory, mill or workshop where minors are employed to keep the workplace sanitary, properly ventilated, and equipped with separate restrooms for male and female employees, *does not apply* to agricultural workplaces or any other class of establishment not explicitly described.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). The Department is responsible for investigating complaints or reports of child labor violations, and for prosecuting persons found to have committed any act prohibited by these provisions. For that purpose, the agency has authority to visit any workplace where minors are employed and to inspect related employment records.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — The superintendent of the school district in which a child at work resides, or in which an establishment where a minor at work is located, is authorized to inspect the child's place of work.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: S.D. Codified Laws §§ 13-27-1 - 13-27-29

GENERAL SUMMARY: Every person having control of a child who is at least 6 years of age must assure that the child regularly attends some public or non-public school for the entire term during which the local public schools are in session, until the child has graduated or reaches the age of 18, unless the child is receiving approved alternative instruction for an equivalent period of time.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment-related exceptions to the compulsory school attendance law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local school boards, through truancy officers employed by each board for that purpose. In response to a report of a child's unexcused absence or irregular attendance, the truancy officer must investigate the circumstances of the case and may file a truancy complaint in court against the person responsible for the child's attendance where evidence of non-compliance is confirmed. A teacher, school officer or other person may also file a truancy complaint. The law prescribes misdemeanor criminal penalties for any such violation.

CIVIL RIGHTS

SOUTH DAKOTA HUMAN RELATIONS ACT OF 1972

STATUTORY CITATION: S.D. Codified Laws §§ 20-13-1 – 20-13-56

GENERAL SUMMARY: Among other offenses defined in the South Dakota Human Relations Act, it is an unfair or discriminatory practice for any person, because of race, color, creed, religion, sex, ancestry, disability or national origin, to fail or refuse to hire a job applicant, to discharge an employee, or to accord adverse or unequal treatment to any person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or any term or condition of employment. The Act also prohibits employers from advertising or otherwise indicating that individuals of any particular race, color, creed, religion, sex, ancestry, disability or national origin are unwelcome, objectionable, not acceptable, or not solicited for employment. Provided they are administered without discrimination, ability tests, seniority systems, merit increase plans, job descriptions, or training systems used by employers to make hiring, promotion, pay and other personnel decisions are generally not regarded as unlawful.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment provisions of the Human Relations Act apply equally to both agricultural and non-agricultural employers with one or more employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for anyone to engage in any reprisal, economic or otherwise, against an individual because the individual has filed a charge, testified, or helped anyone exercise rights under the Human Relations Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Human Rights, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). It is the role of this agency to receive, investigate and attempt to settle informally all complaints charging an unfair or discriminatory practice. A worker has up to 180 days after an alleged unlawful act to file a complaint with the Division.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Human Rights Commission, Division of Human Rights, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). Whenever the efforts of the Division of Human Rights to resolve a complaint by conference or conciliation are unsuccessful, the Commission may call a hearing to permit the party named in the complaint to answer the charges. A finding by the Commission that the respondent has, in fact, engaged in an unfair or discriminatory practice will result in an order requiring the respondent to cease and desist from such practice and to take affirmative action to remedy the damage suffered by the complainant.

EQUAL PAY LAW

STATUTORY CITATION: S.D. Codified Laws §§ 60-12-15 - 60-12-21

GENERAL SUMMARY: No employer may pay wages to any employee in any occupation in South Dakota at a rate less than the employer pays an employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility, but not to physical strength. This does not preclude use of wage differentials paid under established seniority systems, job descriptive systems, or merit increase systems which do not discriminate on the basis of sex. Employers of more than 25 workers are required to maintain a record of the earnings, wage rates, job classifications, and other employment data on each employee.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to farm operators and other agricultural establishments, and protects agricultural workers, to the same extent as their counterparts in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). This agency has authority to investigate and prosecute all violations of the state labor laws, including the equal pay provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who is paid less than full wages in violation of the equal pay law has a right to recover the unpaid amount, plus court costs and attorney's fees, in a civil suit against the offending employer. Any such action must be filed no later than 2 years after the violation occurs.

INSURANCE AND COMPENSATION

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 61-1-1 - 61-7-24

RELATED REGULATIONS: S.D. Admin. R. 47:06:01:01 - 47:06:05:28

GENERAL SUMMARY: The unemployment compensation law establishes a state unemployment compensation fund, into which most South Dakota employers are required to pay contributions in rough proportion to the dollar value of their payroll. The fund is used exclusively for the payment of cash benefits to workers who are temporarily unemployed and who have recent earnings from insured employment and meet other eligibility criteria. With some exceptions, employers are required to pay UI taxes if they (1) paid wages toting \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one individual for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay contributions to the unemployment compensation fund. The amount of a subject employer's contributions is generally computed by multiplying the amount of wages paid by the employer during the calendar year (up to a per-worker wage limit of \$15,000) by the employer's annually assigned contribution rate.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other jobless individual, is normally eligible to receive unemployment insurance benefits only if the state administering agency finds that the worker (1) has registered for work at a state employment office and continued to report to the office periodically thereafter, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned at least \$728 in the one quarter when earnings were highest and earned total wages in the other three quarters amounting to at least 20 times the worker's weekly benefit amount, described below. If an applicant does not meet the monetary requirements using the first four of the last five completed calendar quarters, the base period is the four completed calendar quarters immediately preceding the individual's initial claim.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is defined as 1/26 of the worker's wages from insured work during the high-earnings quarter of the four-quarter base period. In no case, however, may the weekly benefit amount exceed 50 percent of the statewide average weekly wage for covered employment during the preceding year. For any week of unemployment, an eligible claimant is entitled to a payment equal to the weekly benefit amount, minus 75 percent of any earnings from part-time employment that week that exceed \$25.

SEASONAL WORKER PROVISIONS — Wages earned from employment in an industry designated as "seasonal" by the state labor department generally may not be counted in determining eligibility for UI benefits, or the amount of such benefits, except when unemployment occurs during the designated period of normal operation of that seasonal industry. However, the regulatory listing of designated seasonal industries does not currently include any agriculturally related activities.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, South Dakota Department of Labor and Regulation, Aberdeen, South Dakota 57402 (605-626-3172). The Department is responsible for all aspects of the state unemployment insurance system, including determining employer liability for contributions, collecting contributions from subject employers, determining worker eligibility for benefits, paying benefits to eligible workers, and hearing and deciding tax and benefit appeals. Workers may apply for unemployment compensation by phone, at 605-626-3179, or online at www.sd.uiclaims.com.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 62-1-1 - 62-9-15

GENERAL SUMMARY: Under the South Dakota workers' compensation law, most employers in the state are responsible for (1) providing necessary first-aid, medical, surgical and hospital services, and related care during the disability or treatment of an employee injured on the job or disabled by an occupational disease, and (2) paying cash benefits to any such worker (or to the surviving dependents of such a worker if death results from the injury or disease) to compensate for loss of wages. To meet this liability, subject employers must either purchase workers' compensation insurance, operate a state-approved self-insurance plan, or provide the state administering agency with proof of solvency and financial ability to pay compensation directly.

Employers who comply with the requirement to secure payment of compensation are generally protected against further liability for an employee's personal injury or death arising out of and in the course of employment. In the event, however, that a worker is injured or killed while working for an uninsured or insolvent employer, the worker or the worker's dependents may elect to sue the employer for recovery of damages or to proceed against the employer in circuit court under the workers' compensation law. In the latter case, the claimant is entitled to twice the amount of compensation that would otherwise be payable if the employer were insured.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employees of businesses which operate threshing machines, grain combines, corn huskers and similar mechanical equipment for hire, South Dakota's workers' compensation law does not apply to farm or agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Program, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

COLLECTIVE BARGAINING LAW

STATUTORY CITATION: S.D. Codified Laws §§ 60-9A-1 - 60-9A-14

GENERAL SUMMARY: Chapter 9A of the South Dakota labor statutes guarantees most workers in the state the right to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful concerted activities for their mutual aid or protection. Workers are also free to refrain from any or all such activities.

Whenever a question of representation arises, either upon the filing of a petition by any party to such a dispute or otherwise, the law authorizes the state labor department to conduct a secret-ballot election to determine whether or not a majority of the workers wish to be represented, and if so, by whom. The law also defines certain unfair labor practices by both employers and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: South Dakota's collective bargaining law does not apply to farm and ranch labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501.

PESTICIDES AND AGRICULTURAL CHEMICALS

AGRICULTURAL PESTICIDE APPLICATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 38-21-14 - 38-21-58

RELATED REGULATIONS: S.D. Admin. R. 12:56:02 - 12:56:18

GENERAL SUMMARY: Chapter 21 of the state agriculture statutes regulates the use and application of pesticides in South Dakota and includes provisions related to the licensing and certification of applicators, applicator recordkeeping, damage claims, and prohibited acts. The state agriculture department has explicit authority to adopt administrative rules further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

LICENSING — In general, no one may engage at any time in the business of applying pesticides to the land of another without an applicator's license issued by the state, and no one employed by a licensed applicator may apply or supervise the application of any pesticide without having obtained an operator's license.

Exceptions — Licensing is not required of a farm operator applying non-restricted pesticides manually or with ground equipment on the farmer's own property, or on the property of neighboring farmers for their accommodation, as long as the farmer does not regularly perform such functions for hire. Also, pesticides may be applied by an unlicensed person acting under the direct supervision of a licensed applicator or licensed operator.

CERTIFICATION — It is illegal for anyone to use a restricted-use pesticide unless the individual has been certified by the state as competent to do so without unreasonable adverse effects on the environment, including injury to the applicator or other persons.

RECORDKEEPING — Commercial applicators are required to keep a record of each pesticide application. Among other data, the record must include the name and address of the person for whom the pesticide was applied, the location of the land or property treated, the pest and crop involved, the acreage treated, the date and time of application, the name of the pesticide used, the temperature and wind velocity at the time and place of application, the amount and concentration of the pesticide applied, and the name and address of the applicator.

STORAGE AND DISPOSAL OF PESTICIDES — It is generally unlawful to store or dispose of a pesticide or pesticide container in any way which could lead to open dumping or burning of such products or containers, or to water dumping. Pesticides may not be stored next to food or feed.

PROHIBITED ACTS — The pesticide application law makes it a misdemeanor for anyone to apply pesticides to someone else's land without the appropriate class of applicator's or operator's license required for such use. Generally, too, it is a violation of the law for a person to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects. Among the grounds for denial, suspension, revocation or modification of an applicator's license or certification are these:

- (1) Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- (3) Refusing or neglecting to keep required records or make required reports.
- (4) Refusing or neglecting to comply with the statutory or regulatory pesticide provisions or with a lawful order by the enforcement agency.

DAMAGE CLAIMS — A person claiming damages from a pesticide application generally must file a written claim with the state agency within 30 days after the damages occurred. Whenever possible, the agency must inspect the damages and, if the complaint has merit, must make a report of the inspection available to the parties involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Agronomy Services, Division of Agricultural Services, South Dakota Department of Agriculture, Pierre, South Dakota 57501 (605-773-4432). The Department is responsible for issuing regulations for carrying out the language of the pesticide application law, for licensing and certifying pesticide applicators in the state, and for monitoring their compliance with the statutory and regulatory provisions. Representatives of the Department may enter public and private property at reasonable times to inspect pesticide-related equipment, to inspect lands actually or reportedly exposed to pesticides, to inspect storage and disposal areas, to investigate complaints of injury to humans and land, to examine required records, and to sample pesticides being applied or to be applied. The law provides both civil money penalties and criminal sanctions for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

WAGE AND HOUR LAWS (MINIMUM WAGE)

STATUTORY CITATION: S.D. Codified Laws §§ 60-11-3 - 60-11-7

GENERAL SUMMARY: With few exceptions, employers in South Dakota must pay each employee who is 18 years of age or older no less than the hourly state minimum wage, which may be adjusted each year to account for increases in the cost of living as measured by the August consumer price index for all urban consumers (U.S. city average for all items).

On October 15 each year, the state labor secretary is required to publish the adjusted minimum wage rate, which becomes effective the following January 1. The current minimum wage for adults is \$8.65 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage provisions apply to agricultural employment to the same extent as labor in non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). The Department is authorized to investigate and prosecute any reported or suspected violation of the state labor laws, including complaints charging non-payment of the minimum wage. In any action against an employer for failure to pay wages where oppression, fraud or malice is found on the employer's part, the worker is generally entitled to recover double the amount of the unpaid wages as damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE AND HOUR LAWS (WAGE PAYMENTS)

STATUTORY CITATION: S.D. Codified Laws §§ 60-11-8 – 60-11-24

GENERAL SUMMARY: Chapter 60-11 of the state statutes encompasses provisions regulating the payment of wages, including such matters as paydays, medium of pay, and wages at termination. The wage payment provisions apply to employers and employees in all industries and occupations.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — In general, every employer is obligated to pay all cash wages at least once a month, on regular paydays designated in advance by the employer.

MEDIUM OF PAY — Unless an employer and employee agree to another method of payment, wages must be paid (1) in lawful U.S. money, (2) by check, or (3) by direct deposit to the employee's bank account.

FINAL WAGES — When an employee quits or an employer discharges a worker from the payroll, the worker's final pay is due not later than the next regular payday, or as soon thereafter as the worker returns any of the employer's property which is in the worker's possession.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). It is the duty of the Department to investigate any reported or suspected violation of the wage payment provisions, and for that purpose representatives of the Department may enter places of employment, inspect payroll records, and perform other investigatory functions. With respect to a valid wage claim not exceeding \$500, the agency may take assignment of the claim and bring civil action on the worker's behalf to collect it. Intentional refusal to pay wages in conformity with these provisions may also be prosecuted as a criminal offense.

Tennessee

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Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	Other			
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	Wage Discrimination	•	Wage Regulations (Sex Discrimination)	673
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CHILD LABOR

CHILD LABOR ACT OF 1976

STATUTORY CITATION: Tenn. Code §§ 50-5-101 - 50-5-115

GENERAL SUMMARY: The Child Labor Act establishes a minimum age of 14 for lawful employment in most trades and industries in Tennessee, limits working hours and sets other employment conditions for 14- and 15-year-olds, prescribes slightly more flexible standards for minors 16 and 17 years of age, prohibits the employment of minors of any age in certain hazardous occupations, requires that minors be provided with an unpaid 30-minute break or meal period if scheduled to work 6 consecutive hours or more, and imposes recordkeeping and posting duties on those who employ child labor.

PROVISIONS APPLICABLE TO AGRICULTURE: The Child Labor Act does not apply to minors employed in agricultural work.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Tenn. Code §§ 49-6-3001 – 49-6-3051

GENERAL SUMMARY: With only narrow exceptions, every parent, guardian or other person residing in Tennessee and having control of a child between the ages of 6 and 17 (inclusive) must see that the child attends a public or non-public school.

PROVISIONS APPLICABLE TO AGRICULTURE: The obligation to assure school attendance applies to parents or custodians and their school-age children without regard to employment status or occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Sole authority for enforcing the compulsory attendance laws is vested in the local school districts. With respect to any child of compulsory school age who is not enrolled in school or who has been absent without valid excuse for a cumulative total of 5 days or more during the school year, the school superintendent or other authorized school official must serve written notice of the attendance requirements on the child's parent or custodian. Charges may be filed if the responsible party has not complied within 3 days thereafter. Violation of the compulsory attendance provisions is a Class C misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

• HUMAN RIGHTS LAW (EMPLOYMENT DISCRIMINATION)

STATUTORY CITATION: Tenn. Code §§ 4-21-101 – 4-21-408

GENERAL SUMMARY: Title 4, Chapter 21 of the Tennessee statutes establishes a state commission on human rights and grants that agency responsibility for, among other matters, enforcing the law's provisions against employment discrimination on grounds of race, creed, color, religion, sex, age, and national origin. The employment provisions of the human rights law apply to both agricultural and non-agricultural employers with 8 or more employees.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY EMPLOYMENT PRACTICES — In general, it is unlawful for a subject employer to refuse to hire a job applicant, to fire an employee, or to discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment, because of the individual's race, creed, color, religion, sex, age (40 and over), or national origin. It is also illegal to limit, segregate or classify employees or job applicants on the basis of any of these same factors in a way which would tend to deprive an individual of employment opportunities or otherwise adversely affect employment status.

Exception — In those instances where religion, sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, the human rights law does not bar an employer from using an applicant's religion, sex or age in hiring decisions.

COMPLAINTS — A worker claiming to be aggrieved by a discriminatory employment practice may file a complaint with the state enforcement agency at any time within 180 days after the alleged practice occurred. The agency's staff must promptly investigate the complaint and, if there is reasonable cause to believe that the employer or other respondent named in the complaint has engaged in a discriminatory practice, must attempt to reach a conciliation agreement under which the employer agrees to eliminate the unlawful practice. Unless the case is dismissed or a conciliation agreement is reached within 90 days after a finding of reasonable cause, the agency must call a hearing and require the respondent to answer the allegations of the complaint formally. After evidence is heard, a determination by the agency that the respondent has engaged in a discriminatory practice will result in issuance of an order for cessation of the violation and appropriate corrective action, which may include hiring, reinstatement or upgrading of the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Tennessee Human Rights Commission, Nashville, Tennessee 37243 (615-741-5825; toll-free 800-251-3589). The Commission is authorized to receive, investigate, seek to conciliate, hold hearings on, and issue findings of fact and related orders in response to complaints alleging violations of the human rights law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who is subjected to unlawful employment discrimination under these provisions may, through a private attorney or public legal service provider, bring civil action in chancery court to recover damages, as well as court costs and attorney's fees, and to enjoin further violations. Suit must be filed within one year after the alleged discriminatory practice ceased.

TENNESSEE DISABILITY ACT

STATUTORY CITATION: Tenn. Code §§ 8-50-103 - 8-50-104

GENERAL SUMMARY: The Tennessee Disability Act bars any employer with 8 or more employees in the state from discriminating against a person with respect to hiring, firing and other terms and conditions of employment, based solely on the person's physical, mental or visual disability, unless the disability to some degree prevents the person from performing the duties required or impairs the performance of the work involved. Likewise, no blind person may be discriminated against in any such employment practices because he or she uses a guide dog.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies without regard to the industrial classification of the employer or occupational classification of the worker.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a job applicant because he or she has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Tennessee Human Rights Commission, Nashville, Tennessee 37243 (615-741-5825; toll-free 800-251-3589). The Commission is authorized to receive written sworn complaints filed by individuals aggrieved by discriminatory practices prohibited by the Tennessee Disability Act, and the agency must follow the procedure prescribed in the state human rights law (see previous entry) to try to resolve them.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is subjected to unlawful discrimination under the Tennessee Disability Act may, through a private attorney or public legal service provider, bring civil action in chancery court to recover damages, as well as court costs and attorney's fees, and to enjoin further violations. Suit must be filed within one year after the alleged discriminatory practice ceased.

WAGE REGULATIONS (SEX DISCRIMINATION)

STATUTORY CITATION: Tenn. Code §§ 50-2-201 - 50-2-207

GENERAL SUMMARY: No employer may discriminate between employees in the same establishment on the basis of sex, by paying an employee a salary or wage rate less than the rate paid to an employee of the opposite sex for comparable work on jobs requiring comparable skill, effort and responsibility and performed under similar working conditions. Employers are not, however, barred from using wage differentials based on a seniority or merit system, a system which measures earnings by quality or quantity of production, or any other reasonable compensation plan tied to factors other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: On the same terms as coverage in non-agricultural sectors, Tennessee's sex discrimination provisions apply to all agricultural employers and covers all agricultural workers who are not already protected by the federal Equal Pay Act (see entry, U.S. — Civil Rights — Wage Discrimination).

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). At the request of a worker claiming to have been paid less than the wage to which the worker is entitled due to an act of sex discrimination, the Department may investigate the claim and take action on the worker's behalf to collect it. In addition to civil liability, the employer involved in any such violation is also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of these provisions may bring suit against the offending employer directly, using a private attorney or public legal service provider. Court action may be commenced no later than 2 years after the claim arises. An employer who violates the sex discrimination law is liable to the worker affected in the amount of the unpaid wages and, in a case of willful violation, an additional equal amount as liquidated damages. An award to the worker may also include reasonable attorney's fees and court costs.

WHISTLEBLOWER LAW

STATUTORY CITATION: Tenn. Code § 50-1-304

GENERAL SUMMARY: No employee may be fired solely for refusing to participate in, or for refusing to remain silent about, activities that are in violation of state or federal law or any regulation intended to protect the public health, safety or welfare.

PROVISIONS APPLICABLE TO AGRICULTURE: Tennessee's whistleblower provision protects agricultural workers and applies to agricultural employers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker terminated in violation of this provision may take action in civil court against the employer involved, using a private attorney or public legal service provider.

WAGE REGULATIONS (COMPULSORY TRADE)

STATUTORY CITATION: Tenn. Code § 50-2-106

GENERAL SUMMARY: Chapter 2, Part 1 of the state labor laws contains a provision prohibiting agricultural and non-agricultural employers from engaging in certain compulsory trade practices.

SPECIFIC TERMS AND CONDITIONS: It is illegal for any employer who owns or controls a store, or the agent of such an employer, to influence or compel his or her workers to purchase goods at the employer's store by withholding wages beyond the usual time of payment. It is also unlawful for an employer to require as a condition of employment, or continued employment, that a worker trade at a store specified by the employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). This agency has authority to investigate worker complaints of forced trade under this provision, and to assist in prosecution of violations, which are treated as Class C misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972

STATUTORY CITATION: Tenn. Code §§ 50-3-101 - 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-07

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act, in part, makes it the duty of most employers in the state to provide their employees with working conditions and a workplace which are free from potentially life-threatening or other serious hazards, and imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the Act's broad rulemaking authority, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Tennessee's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818). On the agency's own initiative or in response to an employee's complaint or request for inspection, representatives of TOSHA are authorized to enter any premises where workers are employed and inspect all conditions, structures, equipment and materials which have a bearing on worker safety and health. If an inspection or investigation reveals evidence of a violation of the Act or a related standard or regulation, the agency must cite the employer and set a deadline for corrective action. TOSHA has explicit authority to assess monetary penalties for any such violation. Certain serious infractions may also be prosecuted as criminal offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (FIELD SANITATION)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 - 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-07

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the Act's rulemaking authority, the state labor department has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Tennessee's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and likewise apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 - 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-01

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Tennessee's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ TENNESSEE EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Tenn. Code §§ 50-7-101 - 50-7-715

GENERAL SUMMARY: The Tennessee Employment Security Law authorizes the payment of unemployment insurance benefits to individuals who are temporarily out of work and who have recent earnings from insured employment and meet other eligibility requirements. Benefits are financed by premiums paid to the unemployment compensation fund by most of the state's employers, in rough proportion to the dollar amount of their payroll. Employers are generally required to pay premiums if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Each farm operator or other agricultural employing unit that (1) paid at least \$20,000 in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor in each of 20 different calendar weeks in the current or preceding calendar year, is required to pay premiums to the state unemployment compensation fund. An employer's premiums are generally computed on the total amount of wages paid to the employer's workers (up to an annual wage ceiling ranging from \$7,000 to \$9,000 per worker), multiplied by the employer's premium rate, which is determined each year by the state administering agency in consideration of the employer's unemployment claims experience and other factors.

ELIGIBILITY FOR BENEFITS — An unemployed claimant not otherwise disqualified is eligible to receive unemployment insurance benefits only if the state agency finds that the worker (1) has made a claim for benefits, (2) has furnished his or her Social Security number, (3) has registered for work at the state employment office and continued to report to the office periodically thereafter, (4) is able to work, available for work, and making a reasonable effort to find work, (5) has been unemployed for a waiting period of one week, and (6) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned quarterly wages of at least \$780 averaged over the two quarters when earnings were highest.

AMOUNT OF BENEFITS — An individual's weekly benefit amount varies according to the quarterly wage average mentioned above, but may range from \$30 to \$275 per week. For any week of unemployment, the claimant is entitled to a UI payment equal to the weekly benefit amount, minus that part of the week's part-time earnings (if any) which exceeds the greater of \$50 or 25 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment premiums, in cases where farmworkers (other than workers operating mechanized equipment) are furnished to a farm operator by a crew leader who is a federally registered farm labor contractor, and the workers are not employees of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Compensation Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (toll-free 844-224-5818). The Department is responsible for enforcing the collection of premiums from subject employers, administering the payment of benefits to eligible claimants, and adjudicating related appeals by employers and workers. Claims for unemployment compensation may be filed online, at https://www.jobs4tn.gov/vosnet/registration/ind/uiclaim.aspx.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Tenn. Code §§ 50-6-101 - 50-6-921

GENERAL SUMMARY: The Workers' Compensation Law requires every employer subject to its terms to pay compensation for the injury or death of an employee, due to an accident or an occupational disease arising out of and in the course of employment, generally without regard to fault. In addition, subject employers are responsible for furnishing free of charge to the injured or diseased worker such medical and surgical treatment, medicines, supplies and other care as are reasonably necessary for treatment of or recovery from such injury or disease. To meet their obligations under the law, employers must either purchase a workers' compensation insurance policy from a commercial carrier, or provide the state with proof of financial ability to pay claims directly.

Employers who insure their liability for compensation or qualify as self-insurers are generally protected against all further liability for injury or death of a worker on the job, and the worker or the worker's dependents are accorded compensation and medical care without the need for litigation. On the other hand, an employer who fails to secure payment of compensation faces significant fines and other penalties assessed by the enforcement agency.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law **does not apply** to agricultural laborers or their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Workers' Compensation, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243.

LABOR CONTRACTORS AND WORKER RECRUITMENT

GENERAL LABOR LAWS (HIRING PRACTICES)

STATUTORY CITATION: Tenn. Code § 50-1-102

GENERAL SUMMARY: Chapter 1, Part 1 of the state labor statutes contains a ban on certain recruitment practices relevant and implicitly applicable to agricultural employment.

SPECIFIC TERMS AND CONDITIONS: It is illegal for anyone to induce or persuade a worker to move from one place to another within the state, or to bring workers of any kind into Tennessee for any sort of employment, by means of misrepresentation, false pretenses, or false advertising concerning the nature of the work to be done, the amount of compensation to be paid, the sanitary conditions on the job, the existence or non-existence of a strike at the worksite, or other conditions of employment. For purposes of this provision, failure to state in any job advertisement, proposal or contract that there is a strike, lockout or similar labor dispute at the place of proposed employment, when in fact such a dispute actually exists there, is deemed misrepresentation and false advertising.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced in the criminal courts by public prosecuting attorneys. A violation is punishable by a fine of not less than \$500, confinement for up to 6 months, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is influenced, induced or persuaded through misrepresentation or on false pretenses to relocate for purposes related to employment has a right to sue the offending party for all damages that the worker has sustained as a result. In addition to actual damages, the worker is entitled to recover reasonable attorney's fees.

PESTICIDES AND AGRICULTURAL CHEMICALS

TENNESSEE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

STATUTORY CITATION: Tenn. Code §§ 43-8-101 - 43-8-206

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-02 and 0080-09-04

GENERAL SUMMARY: The Tennessee Insecticide, Fungicide, and Rodenticide Act specifically regulates pesticide products and dealers in the state, including commercial and private applicators. The Act explicitly authorizes the state agriculture department to adopt and enforce related administrative standards further regulating the use of pesticides in Tennessee.

SPECIFIC TERMS AND CONDITIONS

RESTRICTED-USE PESTICIDES — Anyone who buys or uses a restricted-use pesticide must be certified as a private or commercial applicator, unless licensed as a commercial pest control operator.

COMMERCIAL APPLICATOR CERTIFICATION — Restricted-use pesticide applicators are required to pass an examination specific to the category of service they will engage in. The agricultural pest control certification exam covers the various crops and pests targeted by pesticides, soil and water issues, pre-harvest and re-entry intervals, the potential for environmental contamination and non-target injury, and community issues relevant to use of restricted-use pesticides in agricultural areas. Every 3 years, a commercial pesticide applicator must obtain at least 18 units of approved continuing education to qualify for recertification.

RECORDKEEPING — All commercial pest control operators and commercial applicators must keep true and accurate records documenting each use of general- and restricted-use pesticides. Records must be made available for enforcement agency inspection for 2 years following the pesticide use. Among other information, the record must include (1) the applicator's name and state-assigned ID number, (2) the name of the pesticide used, (3) the pest and crop targeted by the treatment, (4) the location of the application, (5) the application rate and amount of product used, (6) the name of the person who requested the application, and (7) the date of the treatment.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S.—Pesticides & Agricultural Chemicals—General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). The Department is responsible for issuing licenses and certification for qualified pesticide businesses and applicators in the state, and for monitoring their operations. Representatives of the Department may inspect any premises where pesticides are stored or used, observe pesticide applications, and take samples. After an opportunity for hearing, the Department may suspend or revoke the license or certificate of any applicator who has violated any provision of the Act or the associated regulations. Non-compliance is also punishable as a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

AERIAL PESTICIDE APPLICATION LAW

STATUTORY CITATION: Tenn. Code §§ 43-8-301 - 43-8-315

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-03 and 0080-09-04

GENERAL SUMMARY: Chapter 8, Part 3 of the state agriculture statutes restricts the commercial aerial application of pesticides in Tennessee and contains rulemaking provisions authorizing administrative adoption of related regulations.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Before engaging in the application of pesticides by aircraft, a pilot must obtain a license from the state to do so. Issuance of a commercial aerial applicator's license requires the applicant, among other prerequisites, (1) to hold a valid license issued by the Federal Aviation Administration authorizing agricultural aircraft operations, and (2) to demonstrate proficiency in aerial pesticide application, by meeting the requirements of certification for that category of operation.

Aircraft licenses must be prominently displayed on each aircraft, and each pilot must carry his or her license at all times while engaged in aerial pesticide application activities.

INSURANCE — No aerial applicator's license may be issued unless the applicant submits proof of liability insurance coverage in the amount of \$100,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). The Department is responsible for testing and licensing of aerial pesticide applicators in the state, and for monitoring their professional activities. After opportunity for hearing, the Department may suspend or revoke the license of any operator found to have violated the statutory or regulatory provisions applicable to aerial applicators, and may impose civil penalties of up to \$2,500 per violation. Operating without a license, using pesticides in a manner inconsistent with label instructions, or otherwise failing to comply with such provisions is a Class A misdemeanor, punishable by a fine of up to \$2,500, imprisonment for up to one year, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

● TENNESSEE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (WORKER PROTECTION)

STATUTORY CITATION: Tenn. Code §§ 43-8-101 - 43-8-206

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-05

GENERAL SUMMARY: Under the Insecticide, Fungicide, and Rodenticide Act's rulemaking authority, Tennessee's agriculture commissioner has adopted administrative rules that include explicit protections for agricultural workers in the field.

SPECIFIC TERMS AND CONDITIONS

EPA WORKER PROTECTION STANDARD — Agricultural employers must comply with the worker protection standard established by the U.S. Environmental Protection Agency, which requires that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

NOTICE TO FARM LABOR CONTRACTORS — The owner or operator of an agricultural establishment subject to the state rules must provide any farm labor contractor who performs work there (1) the location of the establishment's central posting site, and (2) any re-entry restrictions in effect in a pesticide-treated area if the area is within 1/4 mile of a location where workers are present and the treated area is not posted as required under the EPA standard. The labor contractor, in turn, must direct the workers under his or her control to the central posting area or provide the required pesticide application notifications to the workers directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). Among other authorities and responsibilities under the Act, representatives of the Department are permitted to inspect places where the required field worker pesticide safety training is being held, and to question trainers and attendees to determine compliance with these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

STATUTORY CITATION: Tenn. Code § 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-09

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act requires employers in the state to comply with the hazard communication standard established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication).

PROVISIONS APPLICABLE TO AGRICULTURE: While the state Occupational Safety and Health Act covers virtually all employers and employees in the state, the state hazard communication regulations explicitly exclude any agricultural workplace with respect to which the state agriculture commissioner certifies that the chemicals present there are covered by other federal or state laws or regulations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). This agency is responsible for making the certification required to relieve an agricultural employer from compliance with the hazard communication standard adopted under the state Occupational Safety and Health Act.

○ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 - 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-01

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Tennessee's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

WAGE REGULATIONS

STATUTORY CITATION: Tenn. Code §§ 50-2-101 - 50-2-113

GENERAL SUMMARY: Chapter 2, Part 1 of the state labor laws regulates wage payment practices in Tennessee, largely by prescribing duties and restrictions related to wage disclosure, pay periods, paydays, and medium of pay.

PROVISIONS APPLICABLE TO AGRICULTURE

WAGE DISCLOSURE — The provision which makes it a misdemeanor for employers to hire workers without first informing them of the wage rates to be paid, *does not apply* to farm labor.

FREQUENCY OF PAYMENT — To the same extent as their counterparts in other industries, farm operators and other agricultural establishments with 5 or more employees are required to pay their workers at least twice each month. Wages earned from the 1st through the 15th day of any month are due and payable no later than the 5th day of the following month; wages earned from the 16th through the last day of the month are payable by the 20th of the next month.

PAYDAYS — Every employer in the state must establish and maintain regular paydays, and must post conspicuously in at least 2 locations at the workplace a notice indicating the payday schedule.

MEDIUM OF PAY — Agricultural and non-agricultural employers alike are forbidden to pay wages in any medium of exchange other than (1) lawful U.S. money, (2) valid and negotiable check or draft, payable without discount in lawful U.S. money at an established place of business, (3) electronic transfer in lawful U.S. money, or (4) credit to a prepaid debit card, from which the employee is able to withdraw or transfer funds. Employers who use debit cards to pay wages must ensure that their employees can make at least one withdrawal or transfer per pay period for any amount contained on the card and without cost to the employee, and must give their employees the option to receive pay via electronic transfer instead.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). This agency is responsible for investigating claims of non-payment of wages in accordance with these provisions, and has authority to access payroll and other employment records to ascertain compliance. Violation of the provisions outlined above is a Class B misdemeanor, punishable by a fine of up to \$500, a jail term of up to 6 months, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CROP LIEN LAWS

STATUTORY CITATION: Tenn. Code §§ 66-12-101 - 66-12-115

GENERAL SUMMARY: Chapter 12 of the Tennessee property statutes includes provisions granting farm laborers a lien on the crops they help produce, enforceable in the event of non-payment of wages or compensation.

SPECIFIC TERMS AND CONDITIONS: Any worker who cultivates the soil or performs related services on a crop in accordance with a verbal or written contract with a farm operator, and who does not receive full wages or compensation as agreed on in the contract, may enforce a lien on the crop at any time within 3 months after November 15 of the year in which the labor on the crop was performed. The worker must file a sworn statement of the claim before the appropriate court in order to preserve this right, and the laborer's lien is second only to any landlord's lien for unpaid rent or supplies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — These provisions are enforceable only through the courts. A farmworker who does not receive all wages earned in the production of a crop should consult a lawyer about foreclosure of the worker's lien, as well as other legal avenues for recovering the unpaid wages.

Texas

			Texas	
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Texas

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Tex. Labor Code §§ 51.001 – 51.046

RELATED REGULATIONS: 40 Tex. Admin. Code §§ 817.1 – 817.33

GENERAL SUMMARY: With the legislative aim of ensuring that no child is employed in an occupation or in a manner that is detrimental to the child's safety, health or well-being, Chapter 51 of the Texas labor statutes establishes a minimum age of 14 for lawful employment in most trades and industries in the state, limits the number of hours and the time of day during which minors may be employed, and prohibits child labor in occupations declared hazardous by the state workforce commission.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided employment occurs only outside the hours during which the child is legally required to attend school, the child labor law **does not apply** to any minor employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Law Section, Texas Workforce Commission, Austin, Texas 78778. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Tex. Educ. Code §§ 25.085 - 25.0951

GENERAL SUMMARY: Every child in Texas who has reached the age of 6 but has not yet reached the age of 19 is generally required to attend a public school each school day for the entire period the program of instruction is provided, or attend a private or parochial school whose curriculum includes good citizenship.

Among other narrow exceptions, the requirement to attend school does not apply to a child who (1) is at least 17 years old and has received a high school diploma or GED certificate, or (2) is at least 16 years old and is enrolled in an approved high school diploma program or GED preparation program.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to children in the affected age bracket without regard to employment status or occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school attendance officers appointed by the state's local school boards or superintendents, and by local peace officers. Attendance officers are authorized to investigate any case involving the non-enrollment or unexcused absence of a child of compulsory school age in their respective districts. If the parent or person standing in parental relation to such a child fails to see that the child attends school as required, the attendance officer must give a written warning to the child's parent or custodian. Criminally negligent failure to comply after a warning will lead to a complaint in county, justice or municipal court and, upon conviction, to a fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: Tex. Labor Code §§ 21.001 – 21.556

GENERAL SUMMARY: Chapter 21 of the state labor statutes outlaws certain forms of employment discrimination in Texas and designates a state agency to receive, investigate, conciliate, and judge complaints alleging violations. The law generally applies to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — With some exceptions, it is illegal for a subject employer to engage in any of the following acts, among others:

- (1) To fail or refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment, because of race, color, disability, religion, sex, national origin, or age (40 and older).
- (2) To limit, segregate or classify a job applicant or employee on any of the same grounds in a way that would tend to deprive a person of employment opportunities or otherwise adversely affect employment status.
- (3) To publish or circulate an employment notice or advertisement indicating a preference or specification based on race, color, disability, religion, sex, national origin, or age.

Employment agencies and labor organizations are barred from comparable discriminatory practices.

Exceptions — The law does not prevent employers from applying different standards of compensation, or different terms, conditions or privileges of employment, under a bona fide seniority system, merit system, employee benefit plan, or a system which measures earnings by quantity or quality or production, provided such differences do not discriminate on the basis of race, color, disability, religion, sex, national origin, or age.

COMPLAINTS — Any employee or job applicant who is aggrieved by a discriminatory practice prohibited under these provisions, or the representative of any such worker, may file a complaint with the state enforcement agency at any time within 180 days after the alleged practice occurred. The complaint must be promptly investigated by the agency's staff to determine if there is reasonable cause to believe that the employer or other respondent named in the complaint has, in fact, committed a violation. A determination that reasonable cause exists requires the agency to attempt to eliminate the unlawful practice informally, but if a conciliation agreement cannot be reached within a reasonable time, the agency or the complainant may bring civil action against the respondent to enforce compliance.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Civil Rights Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-2642; toll-free 888-452-4778). In performing its investigatory functions under the employment discrimination law, the Commission is authorized to compel the attendance of witnesses and subpoena personnel records and other documents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Under certain circumstances, the Commission may refer a complaint, or defer jurisdiction over the subject matter of a complaint, to any local commission created by one or more political subdivisions in the state to promote the law's anti-discrimination purposes. In any such case, the local commission must investigate the violation alleged in the complaint and take remedial action, but if the local body fails to act on the complaint within 60 days, the state may assume or reassert jurisdiction over the case.

PRIVATE CIVIL ACTION — Whenever a complaint is dismissed by the Commission, or if the Commission has not successfully negotiated a conciliation agreement or brought suit to enforce compliance within 180 days after the complaint is filed, the complainant may take legal action against the respondent directly, using a private attorney or public legal service provider. Whether brought by the complainant or by the Commission, civil action may not be commenced later than 2 years after the date the complaint was originally filed with the agency.

HEALTH AND SAFETY

← HEALTH AND SAFETY CODE (SANITATION AND HEALTH PROTECTION)

STATUTORY CITATION: Tex. Health & Safety Code §§ 341.001 – 341.092

RELATED REGULATIONS: 25 Tex. Admin. Code §§ 295.161 – 295.169

GENERAL SUMMARY: Chapter 341 of the state health and safety statutes provides that every industrial establishment in Texas must be continually maintained in a sanitary condition, and authorizes the state health commissioner to develop and enforce environmental standards for the health and safety of employees in such establishments.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the statute's broad rulemaking authority, the state health commissioner has adopted sanitation standards for temporary places of employment, including work in any agricultural operation or activity performed in the field or outside a permanent structure or facility. The major regulatory provisions are summarized below. These provisions apply only to smaller agricultural workplaces that are not subject to the field sanitation standards enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation).

DRINKING WATER — Employers of agricultural workers at temporary worksites must provide an adequate, sanitary supply of potable drinking water, either obtained from a state-approved water system or supplied in sealed glass or plastic containers. Portable containers must provide a total capacity of not less than 2 quarts of water for each of the maximum number of workers present at the site each day. Water must be maintained at a temperature no higher than 80 degrees F. Except where water is dispensed from a fountain, disposable single-use cups must be furnished to the workers for drinking purposes; the use of common drinking cups or dippers is prohibited.

TOILET FACILITIES — Employers must provide a minimum of one toilet for every 30 workers (or fraction thereof) of each sex on any given day; where chemical toilets are used, the ratio must rise to at least one toilet for every 20 workers. At any job site with 15 workers or fewer, a single toilet may be provided for both men and women, provided it offers privacy and can be locked from the inside. All toilet enclosures must assure privacy, be maintained in a sanitary condition, and be well ventilated. The employer must furnish an adequate supply of toilet paper in each unit.

HANDWASHING FACILITIES — Employers must provide at least one handwashing facility for every 2 toilets furnished at the job site. Handwashing equipment generally must be supplied with running potable water, a suitable cleansing agent, paper towels, and receptacles for their disposal. The handwashing facilities must be supplied with at least 1/2 gallon of potable water for each of the maximum number of workers present at the site each day.

LUNCH OR REST AREAS — At temporary work locations where workers are permitted or required to eat or take rest breaks, employers must provide or designate suitable areas for that purpose. If sufficient shade is not available, a tarp or similar temporary structure should be provided to provide shade during eating and rest periods. There must also be an adequate number of covered receptacles for disposal of food waste. No food may be stored, prepared or eaten in an area where it may become contaminated or otherwise injurious to health.

DISTANCE LIMITATION — No worker may be required to walk more than 1/4 mile to use any of the sanitary facilities described above, unless the employer provides or has arranged for transportation of workers to alternate toilet and washing facilities requiring no more than 5 minutes' travel time for the workers.

PARTIAL EXEMPTION — On any day in which a farm operator employs no more than 6 workers at a temporary field location, the farmer is not required to provide toilet or handwashing facilities, as long as he or she provides or arranges for transportation of the workers to and from nearby alternative facilities accessible for their use. The grower is still obligated to provide drinking water to the workers at the job site.

SPECIAL NOTES OR ADVISORIES

STATE ENFORCEMENT — It is the position of the Department of State Health Services that it has no authority over agricultural activities taking place on a farm in the state of Texas, and thus does not enforce the sanitation standards for temporary places of employment at on-farm agricultural workplaces.

RESPONSIBILITY OF CREW LEADERS AND FARM LABOR CONTRACTORS — Where workers are performing agricultural field work under a contractual arrangement between a farm operator and a farm labor contractor, the farm operator has primary responsibility and the contractor joint responsibility for compliance with these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Public Health and Sanitation Program, Division for Regulatory Services, Texas Department of State Health Services, Austin, Texas 78714 (512-834-6770).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

MISCELLANEOUS LABOR LAWS (SHORT-HANDLED HOES)

STATUTORY CITATION: Tex. Labor Code §§ 52.021 – 52.022

GENERAL SUMMARY: Chapter 52 of the state labor laws includes a provision prohibiting the compulsory use of certain short-handled hoes in agricultural labor.

SPECIFIC TERMS AND CONDITIONS: It is a Class C misdemeanor for an employer of agricultural workers to require an employee to use a hoe with a handle less than 4 feet in length in the performance of agricultural labor in commercial farming operations other than greenhouses and nurseries.

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. Each violation is punishable by a fine of up to \$500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

MIGRANT LABOR HOUSING FACILITIES LAW

STATUTORY CITATION: Tex. Govt. Code §§ 2306.921 - 2306.933

RELATED REGULATIONS: 10 Tex. Admin. Code §§ 90.1 – 90.8

GENERAL SUMMARY: Chapter 2306, Subchapter LL of the Government Code requires the licensing of migrant labor housing facilities, briefly defined as one or more structures or vehicles used for more than 3 days as living quarters for 3 or more migrant, seasonal or temporary agricultural workers, or for 2 or more such families, whether or not rent is charged in connection with use or occupancy.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may establish, maintain or operate any migrant labor housing facility in Texas without first obtaining an annual license from the state to do so. The license must be kept posted at the facility to which it applies at all times during its maintenance or operation.

APPLICATION AND INSPECTION — Application for a migrant labor housing facility license must be made at least 45 days prior to intended operation. Within 30 days after receipt of an application, the state enforcement agency must inspect the premises, and if the facility meets the minimum standards applicable to such housing, the agency will issue a license.

MINIMUM STANDARDS — Following are key elements among the detailed regulatory rules governing the construction, sanitation, equipment and operation of migrant labor housing facilities:

Facility Site — Sites must be well drained, must be free from conditions that can cause offensive odors, flies, fires or similar nuisances and hazards, and must be located at least 500 feet from livestock feeding pens.

Water Supply — Facilities must have a water supply which meets state-prescribed standards. There must be hot water for bathing, laundering, cooking and dishwashing purposes.

Sewage Disposal — Toilets, sinks and drains must be connected to a public sewer system, if available. If not, sewage disposal facilities must be constructed and maintained in accordance with applicable state regulations.

Structures — Housing units and common-use structures must be of sound construction and maintained in a sanitary condition. In living areas used for combined cooking, eating and sleeping purposes, no less than 100 square feet of floor space is required for each occupant over 18 months of age. Rooms used only for sleeping purposes must provide at least 50 square feet of floor space for each intended occupant.

Cooking and Eating Arrangements — Each unit where individual occupants or families prepare their own meals must be equipped with a cook stove, adequate shelves for food storage and counter space for food preparation, mechanical refrigeration, a table and seats for dining, sinks with hot and cold running water under pressure, and lighting and ventilation. The regulations also include detailed requirements for communal or central food service facilities.

Sleeping Arrangements — Beds, cots or bunks, complete with springs, mattresses and mattress covers, are required for all occupants. Such facilities must be kept clean and sanitary and arranged to prevent overcrowding.

Heating — Living quarters and service rooms must have properly installed heating equipment capable of maintaining a temperature of at least 68 degrees F. Heating devices utilizing combustible fuel must be vented, and portable units other than those powered by electricity are forbidden.

Bathing and Laundry Facilities — There must be bathing and laundry facilities within 200 feet of each housing unit. Communal bathrooms, separated and clearly marked for each sex, must contain at least one showerhead for every 10 persons and one wash basin for every 6 persons. Clothes-washing equipment must be provided in a minimum ratio of one washing machine for every 50 occupants, or one laundry tray or tub for every 25. Facilities for drying clothes are also required.

Toilets — Toilet facilities must be within 200 feet of the housing, but privies may be no closer than 100 feet to any living unit, dining room or kitchen. Communal accommodations must have separate, clearly marked facilities for men and women. For every 15 occupants of each sex whose housing units are not equipped with private facilities, there must be one toilet in the communal restroom.

Garbage Facilities — Containers for garbage and other refuse must be located within 100 feet of each unit and must be equipped with tight-fitting lids. Garbage must be collected at least twice a week.

Electricity and Lighting — All housing facilities have to have electricity. There must be adequate numbers of lighting fixtures and electrical outlets in each unit, installed and maintained in safe condition.

Screening — All outside openings on each structure must be screened, and screen doors must be self-closing.

Insect and Rodent Control — Housing and service rooms must be constructed so as to exclude insects, rodents and other pests.

Safety — There must be adequate means of escape from all living units and central facilities in case of fire, and fire extinguishing equipment must be available within 100 feet of each facility. First-aid supplies must be provided at each facility and must be accessible at all times. Agricultural pesticides and toxic chemicals may not be stored within the housing site; all such materials and any potentially hazardous farm implements or equipment kept within 500 feet of a migrant labor housing facility must be stored in a secure, locked enclosure.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Texas Department of Housing and Community Affairs, Austin, Texas 78711 (512-475-3976). This agency is responsible for licensing and inspecting migrant labor housing in the state. Both prior to licensing and as often as circumstances warrant thereafter, representatives of the Department may enter and inspect migrant housing facilities and investigate other facts necessary to ascertain compliance with these provisions.

In addition to its authority to grant, suspend or revoke licensing, the Department may apply to district court for an injunction to restrain a violation of any provision of the housing facility law and the associated regulations. Operation of such a facility without a license and all other infractions are grounds for a civil penalty of \$200 for each day the violation occurs, enforceable by the local county attorney or the state attorney general.

A worker who has a complaint or question about a migrant housing facility covered by this law may contact TDHCA toll-free, at 877-313-3023.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may apply to district court for an injunction to restrain a violation of any provision of the migrant labor housing facilities law and the associated regulations.

INSURANCE AND COMPENSATION

■ TEXAS UNEMPLOYMENT COMPENSATION ACT

STATUTORY CITATION: Tex. Labor Code §§ 201.001 - 215.044

GENERAL SUMMARY: The Texas Unemployment Compensation Act provides for the payment of weekly cash benefits to workers who are temporarily unemployed, have recent earnings from insured employment, and meet other eligibility criteria. Benefits are payable from the state unemployment compensation fund, which is financed by contributions from employers. In general, employers are subject to payment of UI contributions if they (1) paid wages of \$1,500 or more during a calendar quarter in the current or preceding calendar year, or (2) employed at least one individual for a portion of at least one day during 20 or more different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — In most instances, with respect to wages paid for farmwork performed by migrant, seasonal and other agricultural workers under the circumstances outlined below, farm operators and other agricultural establishments in Texas are liable for unemployment insurance contributions on their workers' behalf. Generally, the amount of a subject employer's contributions is equal to the employer's total wage payments during the calendar year up to a taxable wage limit of \$9,000 per worker, multiplied by the employer's contribution rate, which is determined annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

Migrant Workers — All wages paid to a farmworker for agricultural services which require the worker to be absent overnight from his or her permanent place of residence are subject to contributions from the employer, and all such wages are countable in determining the worker's eligibility for and the amount of UI benefits.

Seasonal Workers — Wages paid for agricultural services which do not require the worker's overnight absence from home are subject to employer contributions and are counted for UI benefit purposes under either of the following conditions:

- (1) When the worker is performing services in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets or vegetable seeds.
- (2) When the worker is working for a farm operator or farm labor contractor who employs migrant workers doing the same work, at the same time, and at the same location as the seasonal worker.

Other Agricultural Workers — Wages paid to any non-migrant, non-seasonal worker performing agricultural services are subject to employer contributions and are countable in determining the worker's eligibility for benefits under either of these conditions:

- (1) When the worker is employed by an employer who, during any calendar quarter of the current or preceding calendar year, paid cash wages of \$6,250 or more for agricultural labor.
- (2) When the worker is employed by an employer who, for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, employed at least 3 workers in agricultural labor.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other jobless individual not otherwise disqualified, is generally eligible to receive unemployment benefits only if the state agency finds that the worker (1) has registered for work and continued to report as instructed, (2) has made a valid claim for benefits, (3) is able to work and available for work, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned UI-insured wages amounting to at least 37 times the worker's weekly benefit amount (explained below) and had insured earnings in at least two quarters of the four-quarter base period.

AMOUNT OF BENEFITS — The weekly benefit amount for an eligible claimant who is totally unemployed in any given week is generally equal to 1/25 of the worker's wages from insured employment during the one quarter of the four-quarter base period in which wages were highest. Minimum and maximum amounts are tied to the statewide average weekly wage for UI-covered employment, but benefits currently range between \$66 and \$493 per week. For any week of partial unemployment, a worker is generally eligible for a UI payment at the weekly benefit amount, plus \$5 or 25 percent of the benefit amount, whichever is greater, minus the wages earned that week from part-time work.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm labor contractor or labor agent furnishes farmworkers to perform agricultural services for a farm operator, the contractor is liable for the payment of UI taxes as if the contractor were the employer of the workers, without regard to the right of control or other factors commonly used to determine the employer-employee relationship. If, however, the labor contractor does not pay taxes as required, the farm operator or other person for whom the workers' services are being performed is jointly liable, together with the contractor, for the payment of contributions. Labor contractors are obligated to notify each farm operator with whom they contract as to whether or not they pay UI taxes in Texas and, if so, must present evidence to that effect.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance and Regulation Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-7234; toll-free 800-939-6631). The Commission has sole responsibility for administering the state's unemployment insurance system, including employer tax liability determinations, collection of contributions, benefit eligibility determinations, payment of benefits, and adjudication of tax and benefit appeals. Claims for unemployment compensation may be filed online, at https://apps.twc.state.tx.us/UBS/security/logon.do.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ TEXAS WORKERS' COMPENSATION ACT

STATUTORY CITATION: Tex. Labor Code §§ 401.001 – 419.007, §§ 451.001 – 451.003, and §§ 501.001 – 506.002

GENERAL SUMMARY: In most lawsuits involving damages for an employee's accidental injury on the job, the Texas Workers' Compensation Act abolishes the employer's right to claim as a defense that the accident was due to the employee's own negligence or the negligence of a co-worker, or that the employee had assumed the risk of injury inherent in the employment. To effectuate the Act's primary purpose of providing medical care and income support for job-injured employees without regard to fault and without the need for litigation, offsetting at the same time the substantial loss of legal defenses by employers, the Act strips the employee of the right to sue the employer for damages as long as the employer maintains workers' compensation insurance coverage through a state-licensed insurance company or has a valid certificate of authority to self-insure.

Employees covered by workers' compensation insurance at the time of a work-related injury or onset of an occupational disease are generally entitled to (1) all health care reasonably required by the nature of the injury, as and when needed, and (2) income benefits to compensate for lost wages and certain permanent impairment. In the event of death due to a compensable injury or occupational disease, weekly compensation is payable to the employee's surviving beneficiaries.

Unless they formally opt out, most Texas employers who employ one or more workers are subject to the Act, and their employees are covered unless they request exemption.

PROVISIONS APPLICABLE TO AGRICULTURE

MIGRANT WORKERS — The Workers' Compensation Act applies without exception to workers who are employed in seasonal or temporary agricultural labor and who are required to be absent overnight from their permanent place of residence.

SEASONAL WORKERS — Employees performing farm or ranch work which does not require overnight absence from their permanent residence are covered by the Workers' Compensation Act under any one of the following circumstances:

- While employed in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets, or vegetable seeds.
- (2) While employed by an employer whose gross annual payroll for the preceding year equals or exceeds the state-prescribed adjusted gross annual payroll requirement for coverage of seasonal workers (\$54,783 in 2017).
- (3) While employed by a farm operator or labor contractor who employs migrant workers performing the same work, at the same time, and at the same location.

OTHER AGRICULTURAL WORKERS — For year-round farm employees and other non-seasonal, non-temporary agricultural employees, coverage extends to only those employees employed by an employer for whom either of the following applies:

- (1) Had a gross annual payroll in the preceding year at or above the state-prescribed adjusted gross annual payroll requirement for coverage of seasonal workers (\$54,783 in 2017).
- (2) Employs 3 or more farm or ranch laborers other than migrant or seasonal workers.

As used above, the term "gross annual payroll" includes amounts paid by the farm operator for the services of migrant and seasonal farmworkers and farm labor contractors, but it does not include wages paid to the farmer's family members or business partners.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge or in any other way discriminate against an employee because the employee has filed a workers' compensation claim or testified in a related proceeding. An employee who is subjected to retaliation may be entitled to damages and reinstatement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Workers' Compensation, Texas Department of Insurance, Austin, Texas 78744 (512-804-4000). The Workers' Compensation Division is responsible for assuring compliance with the Workers' Compensation Act by employers, insurance carriers, and claimants. Whenever an employer secures workers' compensation insurance coverage, the insurance carrier must notify the Division, and employers are required to submit to the Division a report of any accident resulting in injury to an employee which results in absence from work for more than one day. The agency is authorized to resolve all disputes between claimants, employers and insurance carriers regarding eligibility for compensation, duration of benefits, and related issues. As a rule, a job injury must be reported to the employer within 30 days after its occurrence to preserve the validity of a compensation claim based on the injury, and compensation is generally not payable unless a claim has been filed with the Division within one year after the injury or the onset of disability due to an occupational disease.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

MISCELLANEOUS LABOR LAWS (COERCION OF EMPLOYEE TRADE)

STATUTORY CITATION: Tex. Labor Code § 52.041

GENERAL SUMMARY: Chapter 52 of the state labor laws includes a provision prohibiting coercion of employee trade, implicitly applicable to both agricultural and non-agricultural workers.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer or anyone else to require — or attempt to require — an employee to do business with a particular company, or to buy food, clothing or other goods from a particular store. Likewise, it is illegal to punish, fire or blacklist an employee for failing to buy from or otherwise do business with a particular company or store.

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. An offense under this provision is punishable by a fine of from \$50 to \$200.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

AGRICULTURE CODE (PESTICIDE AND HERBICIDE REGULATION)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 - 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code §§ 7.1 – 7.71

GENERAL SUMMARY: Chapter 76 of the state agriculture statutes regulates the labeling, registration, sale, use, storage and disposal of pesticides in the state. Among other prescriptive measures, the law requires the certification and licensing of pesticide applicators and authorizes the state agriculture department to adopt detailed standards governing application practices.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION AND LICENSING — Unless acting under the direct supervision of a certified applicator, no one may use or supervise the use of a restricted-use or state-limited-use pesticide unless the individual is licensed as a certified commercial, non-commercial or private applicator and is authorized by the license to use the pesticide in such a manner. Before a license may be issued, applicants for a commercial or non-commercial license must be tested to demonstrate competence to safely and effectively use and supervise the use of pesticides; applicants for a private applicator license must attend a state-approved training course.

FINANCIAL RESPONSIBILITY — Applicants for a commercial applicator license must provide the state licensing agency with proof of a surety bond or liability insurance protecting persons who may suffer damages as a result of the applicant's operations. The amount of the bond or insurance coverage must be no less than \$100,000 for bodily injury, or general aggregate coverage of \$200,000 for each occurrence. Insurance policies must include chemical drift coverage.

RECORDKEEPING — Licensees must keep a record of each application of a restricted-use or state-limited-use pesticide, including the date and time of application, the name of the person for whom the application was performed, the location of the land involved, identifying information on the pesticide used, the target pest involved, the crop treated, certain meteorological data, and the identifying number of each piece of equipment used in the application.

REGISTRATION AND INSPECTION OF EQUIPMENT — All application equipment used by commercial applicators must be registered with the state agency, and a decal issued by the agency must be conspicuously affixed to each such device. Equipment must be maintained in a condition that will permit safe and proper pesticide application and may be inspected by state officers at any time.

STORAGE AND DISPOSAL OF PESTICIDES — No one may store or dispose of a pesticide or pesticide container in a manner that may result in injury to humans, vegetation, crops, livestock, wildlife or pollinating insects, or pollution of any water supply.

LABEL INSTRUCTIONS — It is illegal for anyone to use a pesticide in a manner inconsistent with its labeling, including, among other practices, failing to observe re-entry intervals, pre-harvest intervals, or worker protection requirements.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY — Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832). The Department is responsible for testing and licensing pesticide applicators in the state, and for assuring their compliance with the pesticide laws and the associated regulations. Any worker or other person with cause to believe that a violation has occurred, or who has experienced adverse effects from a pesticide application, may file a complaint with the Department, which must investigate the complaint and make a full written report. The Department may modify, suspend or revoke the license of an applicator for any violation, and may require cessation of the use of any unsafe pesticide equipment until repairs or adjustments are made. The Act provides both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

AGRICULTURE CODE (AERIAL PESTICIDE APPLICATION)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 - 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code § 7.37

GENERAL SUMMARY: Under rulemaking authority in the Agriculture Code, the state agriculture department has adopted regulatory provisions requiring farm operators to provide workers, residents, and certain facilities with notification prior to aerial application of pesticides on nearby fields.

SPECIFIC TERMS AND CONDITIONS

NOTIFICATION RIGHTS — Anyone who works or lives within 1/4 mile of a field to which pesticides may be applied — as well as persons in charge of schools, hospitals, licensed daycare centers and similar facilities within 1/4 mile of a field to which pesticides may be applied — may request that the operator of the farm where the field is located provide prior notification of an aerial application of a pesticide to that field. The request must be in writing and must generally include (1) the name and address of the person making the request, (2) a home and work telephone number where the person can be reached, (3) the date of the request, (4) the location of the field for which the request is being made, and (5) a statement asking for notification prior to the aerial application of pesticides to the specified area. The request must be sent to the farm operator by certified mail.

EFFECTIVE DATES — A request for prior notification remains in effect through December 31 of the year the request is received. Under normal circumstances, the farm operator must begin providing notice within 10 days of receipt of the request.

TIME AND METHOD OF NOTIFICATION — In general, notification must be given no later than on the day before each scheduled aerial application, either by (1) raising a flag or posting a sign that conforms to state-prescribed standards of content and visibility, or (2) giving the notification in writing, in person or by telephone, in English and, when appropriate, in Spanish.

Exception — When an immediate pesticide treatment is required and time does not allow notification within the normal prior-day timeframe, the farm operator must give notice as soon as reasonably possible before the application.

CONTENT OF NOTICE — Regardless of how notification is given, it must include (1) the intended date and approximate time of application, (2) the name of the pesticide to be applied, and (3) the location of the field to which the application is to be made.

REMOVAL OF FLAGS OR SIGNS — Any flags or signs posted in compliance with a required notification must be lowered or removed within 24 hours after the pesticide re-entry interval expires. In no case may flags or signs be left up for more than 72 hours after the end of the re-entry period.

SPECIAL NOTES OR ADVISORIES

MANDATORY PRIOR NOTIFICATION OF FARM LABOR CAMPS — In the case of (1) labor housing that is located adjacent to a field targeted for an aerial pesticide application and owned, managed or controlled by the farm operator involved, or (2) a licensed farm labor camp located adjacent to or within 1/4 mile of a targeted field, no request for notification is required. The farm operator must provide notice no later than on the day before each scheduled aerial application, either (1) by telephone or in person to the head of each household residing in the camp, or (2) by written notice posted on a bulletin board to which camp occupants have access.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832). The Department is responsible for assuring compliance with the pesticide laws and the associated regulations. Under Chapter 7 of the administrative regulations, anyone within the affected area of an aerial application of pesticides who believes that

the required warnings described above were not properly given prior to application, or who experiences adverse effects from any pesticide application, may file a complaint with the Department, which must investigate it and make a full written report. The law provides for both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

AGRICULTURE CODE (WORKER PROTECTION)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 - 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code § 7.36

GENERAL SUMMARY: In addition to prescribing applicator licensing and performance standards, the Agriculture Code authorizes adoption of administrative rules for the protection of farmworkers exposed to pesticides in the field.

SPECIFIC TERMS AND CONDITIONS

Farmworkers, as well as workers mixing, loading, transferring or applying pesticides, must be trained in accordance with the worker protection standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

Qualified trainers are required to make and retain for 5 years a record of each training session they conduct, including dated and signed attendance rosters. Workers who complete a training session must receive an EPA- or state-approved training verification card identifying the trainee and documenting the trainee's attendance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HAZARD COMMUNICATION ACT

STATUTORY CITATION: Tex. Health & Safety Code §§ 502.001 - 502.020

GENERAL SUMMARY: The Hazard Communication Act requires state and local governmental employers to compile and maintain a listing of the hazardous chemicals used or stored in the workplace in certain specified minimum quantities, and to obtain from the manufacturer or distributor a safety data sheet for all hazardous chemicals stored in the workplace regardless of quantity. The Act further provides that employees who may be exposed to hazardous chemicals on the job have a right to be informed of their exposure and to receive from the employer, on request, the employer's workplace chemical list and material safety data sheets.

In addition to these and other duties under the Act, subject employers must administer an education and training program for new or newly assigned employees using or handling hazardous chemicals, to acquaint them with the risks involved and appropriate preventive measures. Employers must also provide workers with appropriate personal protective equipment, and must post a notice informing employees of their rights under the Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The Hazard Communication Act **does not apply** to employment in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Texas Hazard Communication Program, Division for Regulatory Services, Texas Department of State Health Services, Austin, Texas 78714.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ AGRICULTURAL HAZARD COMMUNICATION ACT

STATUTORY CITATION: Tex. Agric. Code §§ 125.001 – 125.017

RELATED REGULATIONS: 4 Tex. Admin. Code §§ 8.1 - 8.12

GENERAL SUMMARY: The Agricultural Hazard Communication Act obligates certain agricultural employers to furnish their workers with information concerning the hazardous chemicals to which they may be exposed on the job, and establishes the right of workers who are at risk of such exposure to receive information, training and protective clothing to help reduce the potential for injury.

SPECIFIC TERMS AND CONDITIONS

EMPLOYER DUTIES — In general, every farm operator or other agricultural employer who (1) annually uses or stores more than 55 gallons or 500 pounds of chemicals subject to the labeling provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, or fertilizers containing chemicals defined as hazardous under the federal hazard communication standard, and (2) pays gross annual wages of \$15,000 or more for migrant or seasonal agricultural labor, or \$50,000 or more for non-migrant, non-seasonal farm labor, must comply with the following information requirements, among others:

Workplace Chemical List — The employer must compile and maintain a listing of all agricultural chemicals of the nature and quantity described above which are used or stored at the workplace. The workplace chemical list must include the name of each substance, the date and crop on which the chemical was applied or used, the work area in which the chemical is actually stored or used, and related information. The chemical list must be updated as needed, but not less frequently than once a year, and must be readily available to agricultural workers, their representatives, and treating medical personnel who need or desire to examine it; employee representatives and medical personnel need not identify the worker being represented or treated.

Material Safety Data Sheets — The employer is responsible for obtaining from the manufacturer or distributor a material safety data sheet for each substance on the workplace chemical list. The safety data sheet is a prescribed document containing chemical hazard and safe-handling information, or a product label with comparable precautionary statements. Material safety data sheets must be attached to the employer's chemical list.

Crop Sheets — To any worker who has not participated in a state-administered training program (described below) or who requests such information, the employer must furnish a crop sheet pertaining to the crops the worker will be working with. Crop sheets, prepared and disseminated in English and Spanish by the state agriculture department, contain such information as the kinds of chemicals typically used on the particular commodity, the chemical application schedule normally followed for that crop, advisories regarding special clothing and other safety measures required or recommended for work around the crop, relevant emergency information, and a summary of the worker's entitlement to material safety data sheets, training, and other rights under the Act. In addition to providing the worker with written copies, the employer must see that the crop sheets relevant to the operations the worker is to perform are read to the worker at least once each work season.

AGRICULTURAL WORKER RIGHTS —

Information — Agricultural workers who are employed by a farm operator or other employer subject to the Act, and who may be exposed to the chemicals regulated by the Act, have a right to be informed of such exposure and a right to access to the employer's workplace chemical list and a copy of any material safety data sheet requested.

Training — Farmworkers are entitled to training regarding the hazards of the chemicals to which they may be exposed and appropriate preventive measures. The training program offered by the state agriculture department and county extension service offices must include information on interpreting labels and material safety data sheets, the proper handling and storage of hazardous chemicals, their acute and chronic effects, protective clothing and equipment, first-aid treatment, and general safety instructions.

Protective Clothing and Equipment — Employers subject to the Act must provide any protective clothing or device recommended by an applicable material safety data sheet, crop sheet or state regulation. Such clothing or equipment is in addition to the standard long-sleeve shirt, long pants, boots or shoes, and socks normally provided by the worker.

LABELS — Existing labels on agricultural chemical containers received at the farm may not be removed or defaced. It is unlawful to require a farmworker to work with a regulated chemical in an unlabeled container, other than a portable vessel intended for the immediate use of the worker who applies the product.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, an employer may not ask or require a worker to waive any rights under this law or the regulations, as a condition of employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Right to Know Program, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832). Among other functions under the Agricultural Hazard Communication Act, the Department is responsible for enforcing the obligation of farm employers to inform and train their employees regarding hazardous agricultural chemicals, and for enforcing the right of farmworkers to information, training and protective gear.

Within 90 days of receipt of a complaint from a worker who has been denied his or her rights under the Act, or a complaint by a representative of such a worker, the Department must complete an investigation and may bring legal action against any party found in violation of the Act within 60 days after the date the investigation is completed. After providing notice and opportunity for hearing, the Department may issue an enforcement order requiring compliance. Failure to respond to an order may lead to assessment of an administrative fine by the Department. Intentional disclosure of false information or negligent failure to disclose a hazard can subject an employer to a civil penalty of up to \$5,000, and if such a violation leads to an injury, the employer is liable to a criminal fine of up to \$25,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

→ TRANSPORTATION CODE (MOTOR TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS)

STATUTORY CITATION: Tex. Trans. Code §§ 647.001 - 647.019

GENERAL SUMMARY: Chapter 647 of the Transportation Code regulates the transportation of migrant agricultural workers in the state.

SPECIFIC TERMS AND CONDITIONS

APPLICABILITY — The provisions summarized below apply to individuals, firms, associations and other entities that transport 5 or more migrant agricultural workers at any one time a total distance of more than 50 miles within the state, in any motor vehicle other than a passenger car or station wagon. The law does not apply to any migrant worker transporting only the worker or the worker's immediate family, or to private businesses or public agencies that offer transportation to the population at large.

DRIVERS — No one may drive a motor vehicle used to transport migrant agricultural workers under the conditions outlined above, unless the driver meets specified minimum qualifications. Drivers must be at least 18 years of age, have at least one year's driving experience, be familiar with state driving rules, and have a valid permit authorizing operation of the vehicle. Each driver must be examined by a licensed physician and have a current doctor's certificate indicating that the driver is qualified under the standards prescribed in the statute.

OPERATING RULES — Migrant worker motor vehicles must be driven in accordance with specific rules spelled out in the statute, as well as with applicable state and local laws and ordinances. Driving while fatigued or operating vehicles at speeds in excess of legal limits is prohibited. Drivers must assure that vehicle equipment and accessories are in good working order and that passengers and freight are safely loaded. The passenger capacity of any such vehicle may not be exceeded, and passengers must be adequately protected against the elements. Migrant workers may not be transported in closed vehicles without windows or other means of ventilation.

HOURS OF SERVICE — No driver may operate a migrant transportation vehicle for a cumulative period of more than 10 hours (excluding meal and rest stops) in any interval of 24 consecutive hours, unless the driver has rested at least 8 consecutive hours immediately following the 10-hour driving period.

MEAL AND REST STOPS — There must be a meal stop of at least 30 minutes' duration no less frequently than once every 6 hours. Passengers must be provided at least one rest stop between meal stops.

VEHICLE EQUIPMENT — No one engaged in transporting migrant workers may operate any vehicle for that purpose unless it is equipped as prescribed in the statute. The law's qualitative and numerical standards cover lighting equipment, brakes, coupling devices, tires and heaters, and also regulate such items as floor and sidewall construction, seats, exits, handrails and other aspects of passenger compartment safety. Each vehicle must be equipped with a properly mounted fire extinguisher.

INSPECTION AND MAINTENANCE — Each carrier of migrant farmworkers must systematically inspect and maintain all motor vehicles under its control, to ensure they are in safe and proper operating condition.

SPECIAL NOTES OR ADVISORIES

PRESUMPTION OF COMPLIANCE — A person who transports migrant agricultural workers and presents evidence of compliance with the federal migrant worker transportation standards enforced by the U.S. Department of Transportation (see entry, U.S. — Transportation — Farmworker Transportation Safety) is deemed to have complied with the state provisions described above.

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by state and local law enforcement agencies, through prosecution in the criminal courts. Owners or operators of migrant transportation vehicles that are covered by these provisions and found out of compliance with the applicable standards are subject to criminal fines ranging from \$5 to \$50. Likewise, anyone who drives a vehicle transporting migrant workers and does so without proper licensing and medical certification, or contrary to any other provision of this law, may also be cited and prosecuted.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

TEXAS MINIMUM WAGE ACT

STATUTORY CITATION: Tex. Labor Code §§ 62.001 – 62.205

GENERAL SUMMARY: With some exceptions, the Texas Minimum Wage Act requires employers to pay their employees no less than the federal minimum wage rate, which is currently \$7.25 per hour. The Act also obliges employers to provide their employees with an earnings statement each pay period.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE COVERAGE — On substantially equal terms with their counterparts in other industries, Texas agricultural workers (other than those engaged in livestock production and dairy farming) are entitled to pay at a rate no less than the federal minimum wage, currently \$7.25 an hour.

Exception — Workers who are under 18 years of age and have not graduated from high school or a vocational training program, and workers under 20 who are regularly enrolled in high school, college or a vocational training program, are not entitled to the state minimum wage. These exemptions do not apply to workers employed in agriculture on a piece-rate basis.

VALUATION OF MEALS AND LODGING — The reasonable cost to the employer of furnishing a worker with meals, lodging, or both, may be included in computing the worker's wages, provided the employer customarily provides meals and lodging to employees and that the costs are itemized in the worker's earnings statement, described below.

EARNINGS STATEMENTS — At the end of each pay period, employers are required to give each worker a signed written statement showing (1) the worker's name, (2) the rate of pay, (3) the worker's total earnings for the pay period, (4) any deductions made from the worker's earnings, (5) the net wages paid, and (6) the total number of hours worked if paid by the hour, or the number of units of production if compensated on a piecework basis.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027). Although the Texas Minimum Wage Act does not explicitly assign enforcement responsibility, the state attorney general's office regards the failure to pay the minimum wage as a violation of the state payday laws, described in the next entry. A worker who does not receive the required minimum wage may file a claim for unpaid wages with the Texas Workforce Commission, on a form available online at www.twc.state.tx.us/jobseekers/how-submit-wage-claim-under-texas-payday-law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PAYDAY LAW

STATUTORY CITATION: Tex. Labor Code §§ 61.001 - 61.095

RELATED REGULATIONS: 40 Tex. Admin. Code §§ 821.1 – 821.81

GENERAL SUMMARY: Chapter 61 of the Texas labor statutes includes provisions regulating paydays, wages at termination, methods of wage payment, and wage deductions, and prescribes an administrative procedure for claiming and collecting unpaid wages. The payday law applies to all forms of private employment in the state.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Farmworkers and other employees who are excluded from federal overtime pay requirements must receive their wages no less frequently than once a month; other workers must be paid at least twice a month. Employers are required to designate paydays in advance and post the schedule in the workplace.

FINAL WAGES — An employee who is discharged from the job is entitled to receive final pay, in full, no later than the 6th day after termination. An employee who quits or resigns must be paid final wages no later than the next regular payday.

FORM OF PAYMENT — Wages generally must be paid (1) in U.S. currency, (2) by check or other written instrument issued by the employer that is negotiable at full face value for U.S. currency, or (3) by electronic transfer. Electronic transfer may be used only if the employee maintains an account at a financial institution that qualifies for direct deposit.

WAGE DEDUCTIONS — An employer is not permitted to withhold or divert any part of a worker's wages unless the employer (1) is ordered to do so by a court of law, (2) is authorized to do so by state or federal law, or (3) has written authorization from the employee to deduct part of the wages for a lawful purpose.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027). A worker who does not receive his or her earnings in accordance with these provisions may file a wage claim with the Workforce Commission, which is authorized to investigate all such claims. Any such claim must be filed within 180 days after the wages claimed became due for payment. When a wage claim is determined to be valid and after all appeals are exhausted, the Commission has authority to take legal action in district court to recover unpaid wages and impose civil penalties for violations. Failure to pay wages owed is also a criminal offense, classified as a 3rd-degree felony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PROPERTY CODE (FARM, FACTORY, AND STORE WORKERS' LIENS)

STATUTORY CITATION: Tex. Prop. Code §§ 58.001 - 58.009

GENERAL SUMMARY: Chapter 58 of the Texas Property Code establishes a worker's lien on the property of certain employers, for wages earned by the worker in the performance of labor under a contract of hire.

PROVISIONS APPLICABLE TO AGRICULTURE: A farmworker who is employed by a farm operator under an oral or written contract, and who does not receive payment in full for the services performed on the employer's crop, has a lien on the crop and related equipment in the amount of the unpaid wages.

To secure the lien, the worker must present a written statement of the claim to the employer and file a verified copy of the statement with the county clerk in the jurisdiction in which the services were performed, both within 30 days after the wages became due. No later than 6 months after securing the lien in this manner, the worker must bring suit to foreclose the lien, or the claim ceases to exist. A worker's lien for wages is second in priority only to a lien by the landowner, if any, for unpaid rent.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As noted above, enforcement of a worker's lien requires court action. Farmworkers who wish to use this approach to collect unpaid wages should consult a private attorney or a public legal service provider.

Utah

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Utah

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	Other			

CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Utah Code §§ 34-23-101 - 34-23-402

RELATED REGULATIONS: Utah Admin. Code R. 610-2

GENERAL SUMMARY: Utah's child labor laws generally forbid the employment of youth under 18 years of age in certain hazardous occupations, restrict the non-hazardous occupations open to minors below the age of 16, and limit the working hours of children under 16.

PROVISIONS APPLICABLE TO AGRICULTURE

HAZARDOUS OCCUPATIONS — As a general rule, no one under 18 years of age may be employed or permitted to work in an occupation determined to be hazardous under federal law by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

AGE RESTRICTIONS IN NON-HAZARDOUS OCCUPATIONS — Unlike most non-agricultural employing sectors, which have age thresholds ranging from 10 to 14, there is *no minimum age* for agricultural work.

LIMITATIONS ON HOURS — Unless authorized by school authorities, minors under the age of 16 generally may not be employed or allowed to work in any occupation during school hours. Furthermore, in agriculture and in all other pursuits, no child under 16 may work before or after school in excess of 4 hours a day, nor before 5:00 a.m. or after 9:30 p.m., except on days preceding non-school days. At no time may a person under 16 work more than 8 hours in any 24-hour period, or more than 40 hours in any week.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discharge an employee, retaliate against an employee, or threaten such action because the employee has testified or may testify in any investigation or proceeding relevant to enforcement of these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238). Representatives of the Commission are authorized to enter and inspect any place of employment, examine age certificates and related personnel records, and take other action to determine compliance with the child labor laws. Anyone found to have violated the child labor laws is subject to an administrative fine of up to \$500, and willful violation is a Class B criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Utah Code §§ 53A-11-101 – 53A-11-106

GENERAL SUMMARY: Any person having control of a minor between 6 and 18 years of age is required to send the minor to a public or regularly established private school — or request an exemption allowing the child to be home-schooled — during the school year of the district in which the minor resides. Among other exceptions, a local school board may partially excuse a minor over the age of 16 from attendance, to allow the child to enter employment or attend a trade school while attending school part-time, provided the child has completed the 8th grade.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to agricultural workers and their school-age children to the same extent as their non-farmworking counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local boards of education. A public school administrator, truant officer, or peace officer may issue a notice of compulsory education violation if a child subject to the compulsory attendance law is absent from school without a valid excuse 5 or more times during the school year. It is a Class B misdemeanor for a parent or guardian of a school-age child, after being served with a notice of violation, to (1) fail to meet with school authorities to discuss the child's attendance problems, or (2) fail to prevent 5 or more unexcused absences during the remainder of the school year. The school board must report each case of a parent or guardian's non-compliance to the appropriate county or district attorney

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

• UTAH ANTIDISCRIMINATION ACT

STATUTORY CITATION: Utah Code §§ 34A-5-101 – 34A-5-112

GENERAL SUMMARY: The Utah Antidiscrimination Act outlaws certain defined unfair employment practices and designates a state agency to receive, investigate and rule on complaints alleging violations. The Act generally applies to all employers, agricultural and non-agricultural alike, that employ 15 or more individuals for each working day in 20 or more different calendar weeks during the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICES — With some exceptions, it is unlawful for a subject employer to engage in any of the following practices, among others:

- (1) To refuse to hire or promote an individual, who is otherwise qualified, because of race, color, sex, pregnancy or childbirth, age (40 or older), religion, national origin, disability, sexual orientation, or gender identity.
- (2) To discharge, demote, or discriminate in matters of compensation or the terms, privileges and conditions of employment, against a person who is otherwise qualified, on any of the above-mentioned grounds.
- (3) To print or circulate any statement or advertisement, or use any form of job application, which directly or indirectly expresses any limitation, preference or discrimination as to race, color, religion, sex, pregnancy or childbirth, national origin, age, disability, sexual orientation, or gender identity, unless based on a bona fide occupational qualification.

Employment agencies and labor organizations are subject to similar prohibitions.

EXCEPTIONS — Among other exceptions, nothing in the Act prevents employers from hiring on the basis of religion, sex, pregnancy, childbirth, age, national origin, disability, sexual orientation, or gender identity in those instances where any such characteristic is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

COMPLAINTS — Anyone aggrieved by a discriminatory or unfair employment practice may file with the state enforcement agency a request for agency action, at any time within 180 days after the alleged practice occurred. When the investigation of a complaint yields evidence of a violation, the staff must attempt to eliminate the prohibited practice by conciliation or persuasion. Failure to reach an informal settlement may result in a formal order by the agency, compelling the respondent to cease any discriminatory practice and to provide relief to the complainant.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238). The Division is charged with receiving and investigating complaints under the Act, and with attempting to resolve informally those complaints determined to have merit. Separate units within the agency are responsible for hearing and adjudicating complaints which cannot be resolved by Division staff.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HEALTH AND SAFETY

UTAH OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Utah Code §§ 34A-6-101 – 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-3

GENERAL SUMMARY: The Utah Occupational Safety and Health Act is intended, in part, to provide for the safety and health of workers and thereby preserve the state's human resources. In furtherance of that policy, the Act requires employers in Utah to furnish their employees with a job and workplace free from recognized hazards that could cause death or serious physical harm, and obligates employers and employees alike to comply with the specific occupational safety and health standards adopted by the state enforcement agency which are applicable to their respective trades and industries.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Utah's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901). Representatives of the Occupational Safety and Health Division (UOSH) are authorized to enter any place of employment in the state, without delay and at reasonable times, for the purpose of inspecting working conditions, investigating health and safety complaints by employees, and carrying out other duties under the Act. If an inspection or investigation reveals evidence of a violation of the Act or the associated regulations, UOSH may issue the employer a citation, describing the infraction and fixing a reasonable time for corrective action; the citation may be followed by assessment of a civil money penalty. Failure to correct a violation may result in a final order for abatement and a penalty against the employer. The Act also prescribes criminal penalties for certain willful and knowing violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKERS' COMPENSATION ACT (PROTECTION OF LIFE, HEALTH, AND SAFETY)

STATUTORY CITATION: Utah Code § 34A-2-301

GENERAL SUMMARY: Apart from its primary purpose of providing economic compensation for workers injured in job-related accidents, the Workers' Compensation Act includes language prohibiting most employers in the state from (1) maintaining any workplace that is not safe, (2) requiring or knowingly permitting an employee to be in a workplace that is not safe, (3) failing to provide and use safety devices and safeguards, (4) failing to adopt and use methods and processes reasonably adequate to render the job and workplace safe, or (5) failing or neglecting to do every other thing reasonably necessary to protect the life, health and safety of their employees.

When a job-related injury is found to have been caused by the employer's willful failure to comply with the Act or its associated regulations, whatever monetary compensation is otherwise payable to the worker will be increased by 15 percent.

With some exceptions, the Act applies to every employer who regularly employs one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: In the agricultural sector, the Workers' Compensation Act — and thus the employer's legal obligation to assure a safe place of employment — applies only to farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

PRIMARY ENFORCEMENT AGENCY — Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

• UTAH HEALTH CODE (MINIMUM RULES OF SANITATION)

STATUTORY CITATION: Utah Code § 26-15-2

RELATED REGULATIONS: Utah Admin. Code R. 392-501

GENERAL SUMMARY: Chapter 15 of the Utah Health Code authorizes the state health department to establish minimum rules of sanitation for numerous types of establishments and facilities, including construction or labor camps.

PROVISIONS APPLICABLE TO AGRICULTURE: Labor camp sanitation standards, major elements of which are summarized below, have been adopted by the health department under the rulemaking authority cited above. In part, these provisions apply to one or more temporary or permanent structures, together with the surrounding grounds, used as living quarters for groups of migrant laborers.

CAMP SITE — Each labor camp site must provide adequate surface drainage and may not be located closer than 100 feet to any livestock holding facility or any potential health hazard.

WATER SUPPLY — A supply of potable water which meets state water quality standards must be provided, under pressure, at each camp. The water system must generally supply at least 50 gallons per day per person.

WASTEWATER DISPOSAL — Wastewater must be discharged into a public sewer system where such a system is accessible within 300 feet of camp property. If connection to a public system is not possible, there must be an alternate disposal system that meets state standards.

PLUMBING — Adequate plumbing fixtures must be made available for all camp occupants. Where toilet facilities for males and females are located in the same building, they must be separated by a sound-resistant wall. The camp operator is required to furnish soap, towels (or approved equivalent hand-drying facilities) and toilet paper. Bathing facilities must be supplied with hot water, at a minimum temperature of 90 degrees F.

LAUNDRY FACILITIES — Essential laundering facilities must be made available to camp residents. If furnished at the camp, there must be at least one washing machine, washtub or laundry tray for every 40 occupants.

BUILDINGS AND MAINTENANCE — Structures must be soundly constructed, well lighted, and adequately heated and ventilated.

SLEEPING ACCOMMODATIONS — Each bed, bunk or cot, as well as mattresses and other bedding, supplied to residents for sleeping purposes must be maintained in a sanitary condition. The camp operator must provide bedding to occupants not furnishing their own.

FOOD SERVICE — Where occupants are permitted or required to cook their own meals, the camp operator must provide each unit with a functioning cook stove, fuel, a refrigerator, a kitchen sink, and adequate food storage space.

SOLID WASTE — Trash and garbage containers, equipped with lids, must be conveniently located for the use of camp residents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the local health departments having jurisdiction over the respective labor housing facilities. If, in response to a complaint or other report, the local health department finds a health hazard at a labor housing facility which requires immediate action to protect human health and safety, the local health department may order the camp owner or operator or any other party contributing to the condition to take appropriate steps to eliminate the hazard. The local health department may require that a permit to operate be issued before a labor housing facility may be built or occupied.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Bureau of Epidemiology, Division of Disease Control and Prevention, Utah Department of Health, Salt Lake City, Utah 84114 (801-538-6191).

INSURANCE AND COMPENSATION

STATUTORY CITATION: Utah Code §§ 35A-4-101 – 35A-4-508

GENERAL SUMMARY: The Employment Security Act makes unemployed workers who have recent earnings from insured employment and meet other eligibility criteria eligible to receive weekly unemployment insurance benefits, financed largely through a payroll tax levied against most of the state's employers. With some exceptions, employers are required to pay UI taxes if they employ one or more workers for some portion of a day during the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural employing unit that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, is required to pay contributions to the state unemployment compensation fund on the workers' behalf. The amount of the contributions depends on the employer's payroll expenditures (which are subject to a per-worker taxable limit determined each year by law) and the employer's UI claims experience.

ELIGIBILITY FOR BENEFITS — An unemployed worker not otherwise disqualified is eligible to receive UI benefits only if the state administering agency finds that the worker (1) has made a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned total wages amounting to at least 1½ times the amount the worker earned in the one quarter of the four-quarter base period in which earnings were highest.

AMOUNT OF BENEFITS — An individual's weekly benefit amount is generally defined as 1/26 of the worker's insured wages in the high-earnings quarter mentioned above, up to a maximum amount of 62.5 percent of the statewide average weekly wage for insured employment. An eligible claimant who is unemployed in any given week is entitled to a UI benefit payment roughly equal to the worker's weekly benefit amount, minus that portion of any part-time earnings that week which exceeds 30 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Utah Department of Workforce Services, Salt Lake City, Utah 84145 (801-526-9235; toll-free 800-848-0688). The Department is responsible for administering the state unemployment insurance system, including the determination of employer liability for UI taxes, collection of taxes from liable employers, determination of worker eligibility for UI benefits, payment of benefits to eligible workers, and hearing and settlement of related employer and worker appeals. Claims for unemployment compensation may be filed online, at jobs.utah.gov/ui/InitialClaims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

STATUTORY CITATION: Utah Code §§ 34A-2-101 - 34A-10-1005

GENERAL SUMMARY: Every employee covered by the state workers' compensation law who is injured in an employment-related accident is entitled to cash compensation for any loss in connection with the injury, as well as medical, nursing and hospital services, and medicines; if the accident results in death, cash benefits and funeral expenses are generally payable to the worker's surviving dependents. The responsibility for payment of compensation and related costs for on-the-job injury or death is on the employer, who must meet that liability by (1) paying premiums to the state worker's compensation fund, (2) purchasing and keeping current a workers' compensation insurance policy through a private insurance carrier, or (3) furnishing the state administering agency with proof of financial ability to pay compensation directly.

Employers who comply with the duty to secure compensation are generally protected against any further liability with respect to a worker's injury on the job, and the worker or worker's dependents are assured of benefits without the need for litigation. On the other hand, an employer who fails to provide for the payment of benefits may be sued for damages by an injured worker or an injured worker's dependents, and such an employer may not claim as a defense that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury. Furthermore, the state agency has authority to file suit to enjoin any uninsured employer from further business operations in Utah.

With some exceptions, the Act applies to employers who regularly employ one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: Under considerably more restrictive conditions than those in most other industries, the Workers' Compensation Act applies only to those farmworkers covered by the state unemployment insurance program, described in the previous entry. Consequently, only those farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to have workers' compensation coverage. Farmworkers who are injured while performing labor for such an establishment are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).* It is the responsibility of the Division to assure that employers subject to the workers' compensation law meet their liability to provide coverage, and to see that each eligible claimant receives full and timely benefits, either from the state fund, the employer's private insurance carrier, or the self-insured employer. In general, an employee who suffers injury on the job should notify the employer promptly; compensation is barred altogether unless notice of injury is given to the employer within 180 days of the accident that led to the injury.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

UTAH OCCUPATIONAL DISEASE ACT

STATUTORY CITATION: Utah Code §§ 34A-3-101 - 34A-3-113

GENERAL SUMMARY: The Utah Occupational Disease Act requires most employers in the state to pay compensation and associated medical costs in the event of an employee's disability or death from an occupational disease. An employer may meet the liability for these benefits by obtaining occupational disease compensation insurance through the state or a private insurance carrier, or by qualifying as a self-insurer by furnishing the state with evidence of financial ability to pay benefits directly.

Covered workers who are totally disabled by an occupational disease contracted in the course of employment are generally entitled to cash compensation, medical and hospital care, and medicines. If death results from the disabling condition, benefits are payable to the worker's surviving dependents, as are prescribed burial expenses.

In most industries in Utah, the Occupational Disease Act applies to employers who regularly employ one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Occupational Disease Act applies to only those farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year. Farmworkers who contract a disease or illness that arises out of — and is medically caused or aggravated by — employment for such an employer, are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Utah Code §§ 34-29-1 - 34-29-20

GENERAL SUMMARY: Chapter 29 of the Utah labor statutes regulates employment agents in the state, defined in brief as anyone who, for money or other valuable consideration, acts as an intermediary between employers and job-seekers, which may include certain farm labor contractors or crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSING — It is illegal for anyone to engage in the business of obtaining work or employment for others, or to act as a broker between employers and persons seeking work, without first obtaining a license to do so from the city where the business is to be carried on (or from the county, if the business is not within a city or town). As one of several conditions on issuance of a license, the applicant must post a bond in the amount of \$1,000, conditioned on compliance with the employment agency law and payment of any damages incurred as a result of the licensee's operations. The license must be conspicuously displayed at the employment agent's place of business.

FEES FOR SERVICES — Private employment agents must maintain a schedule of the fees to be charged in the conduct of their operations, and the fee schedule must be posted where it is plainly visible to potential clients. No agency may charge a fee greater than (a) the fee in effect at the time the employment contract is issued, or (b) 25 percent of a worker's actual earnings during the first 30 days on the job if the worker was terminated during the first 30 days.

RECORDKEEPING — Licensees must keep a register of each employer from whom they have received a job order, and a corresponding record on each worker to whom they have furnished information or assistance regarding employment.

DISCLOSURES — Employment agencies and agents are required to provide every worker referred to employment with a copy of the terms of the job, including the amount of the fees received by the agent, the type of work to be performed, the wage rate to be paid, the expected duration of the job, and the name and address of the employer.

PROHIBITED ACTS — Among other offenses described in the statute, it is a misdemeanor for an employment agent to give any false employment information, to misrepresent the terms and conditions of any employment, to fail to keep required records, or to willfully make any false entries in the required records.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The city, town or county in which an employment agency carries on its business is responsible for licensing the agency, and for handling complaints and questions regarding the fees charged by employment agencies for their services.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Any worker who has suffered legal damages due to unlawful or improper practices by an employment agent may bring suit against the agent's bond, using a private attorney or public legal service provider.

LABOR RELATIONS AND COLLECTIVE BARGAINING

EMPLOYMENT RELATIONS LAW

STATUTORY CITATION: Utah Code §§ 34-20-1 - 34-20-13

GENERAL SUMMARY: Chapter 20 of the Utah labor laws authorizes the state labor relations board (1) to determine appropriate employment units for collective bargaining purposes, (2) to settle controversies regarding the will of the workers in any such unit to be represented by a collective bargaining agent, either by arranging a secret-ballot election or by other means, and (3) to receive, investigate, and pass judgment on complaints charging certain prohibited labor practices. The statute affirms the right of most employees in the state to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for mutual aid or protection; employees also have a right to refrain from any or all such activities.

PROVISIONS APPLICABLE TO AGRICULTURE: Utah's employment relations law **does not apply** to anyone employed as an agricultural laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Utah Labor Relations Board, Salt Lake City, Utah 84114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

• UTAH PESTICIDE CONTROL ACT

STATUTORY CITATION: Utah Code §§ 4-14-1 - 4-14-13

RELATED REGULATIONS: Utah Admin. Code R. 68-7

GENERAL SUMMARY: The Utah Pesticide Control Act regulates pesticides in the state, primarily by authorizing the state agriculture department to adopt regulations relating to the sale, distribution, use and disposal of such materials.

SPECIFIC TERMS AND CONDITIONS: Under the Act's rulemaking authority, the agriculture department has established standards in the following areas of immediate relevance to agricultural field workers:

LICENSING AND CERTIFICATION OF APPLICATORS — It is illegal for anyone to apply any pesticide for hire without becoming certified and obtaining a commercial applicator's license from the state. Before a commercial license can be issued, the applicant is required to pass both a general examination and a more specific test covering the particular pesticide operations the applicant intends to conduct, both designed to demonstrate knowledge and ability to apply pesticides safely and effectively.

Likewise, every agricultural producer who applies restricted-use pesticides on his or her own land must be licensed and certified as a private applicator. Certification generally requires that the applicant demonstrate the ability to read and understand pesticide label directions, demonstrate competency in safely mixing and applying pesticides, and pass a related written examination.

PESTICIDE STORAGE AND DISPOSAL — No one may store or dispose of any pesticide or pesticide containers in a way that would cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects, or pollute any waterway.

PROHIBITED ACTS — Among other offenses defined in the regulations, it is unlawful for anyone (1) to apply any pesticide in a manner contrary to instructions and warnings on the product's label or in violation of state or federal restrictions, (2) to operate in a faulty or careless manner, or (3) to use pesticides without having the proper licensing or certification, if any, required for such use.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY — Pesticide Program, Plant Industry and Conservation Division, Utah Department of Agriculture and Food, Salt Lake City, Utah 84114 (801-538-7183). The Department is responsible for licensing and certification of pesticide applicators, and for monitoring their compliance with the Pesticide Control Act and the corresponding regulations. Representatives of the Department are authorized to observe the use and application of pesticides, to inspect equipment used to apply pesticides, to sample lands exposed to pesticides, and to investigate related complaints of injury to animals or lands.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Utah Code §§ 34A-6-101 – 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-1

GENERAL SUMMARY: The Utah Occupational Safety and Health Act authorizes the state enforcement agency to establish specific safety and health regulations for any trade or industry.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Utah's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901). If an inspection or investigation reveals evidence of a violation of the Act or the associated regulations, UOSH may issue the employer a citation, describing the infraction and fixing a reasonable time for corrective action; the citation may be followed by assessment of a civil money penalty. Failure to correct a violation may result in a final order for abatement and a penalty against the employer. The Act also prescribes criminal penalties for certain willful and knowing violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Utah Code §§ 34A-6-101 - 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-1

GENERAL SUMMARY: The Utah Occupational Safety and Health Act authorizes the state enforcement agency to establish specific safety and health regulations for any trade or industry.

PROVISIONS APPLICABLE TO AGRICULTURE: The state agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Utah's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

WORKER TRANSPORTATION LAW

STATUTORY CITATION: Utah Code §§ 34-36-1 - 34-36-4

RELATED REGULATIONS: Utah Admin. Code R. 614-6-6

GENERAL SUMMARY: Whether or not it is used on a public highway, a motor vehicle furnished by an employer to transport one or more workers to and from their places of employment must at all times be maintained in a safe condition and operated in a safe manner, in accordance with administratively prescribed rules and minimum standards.

PROVISIONS APPLICABLE TO AGRICULTURE: The worker transportation law does not apply to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

■ UTAH MINIMUM WAGE ACT

STATUTORY CITATION: Utah Code §§ 34-40-101 - 34-40-205

RELATED REGULATIONS: Utah Admin. Code R. 610-1

GENERAL SUMMARY: The Utah Minimum Wage Act establishes a statewide hourly wage floor applicable to most workers who are not covered by the federal minimum wage (see entry, U.S. — Wages & Hours — Minimum Wage). Utah's minimum wage is set by the state labor commission, which must review it at least every 3 years, but in no case may the state rate exceed the federal minimum.

The current Utah minimum wage is \$7.25 per hour for adult workers. For the first 90 days on the job with a particular employer, workers under the age of 18 must receive no less than \$4.25 an hour, but thereafter are entitled to the full adult minimum.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the state minimum wage protects workers excluded from coverage of the federal minimum wage law, farm employers in Utah that used no more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are generally required to pay their adult employees at least \$7.25 for every hour of labor. Their workers under age 18 must receive at least \$4.25 an hour during their first 90 days on the job, and \$7.25 thereafter.

Exceptions — The state minimum wage does not apply to any farmworker who (1) is employed as a piecework-paid harvest laborer in an operation customarily paid on a piecework basis in the region of employment, or (2) was employed in agriculture for less than 13 weeks during the preceding year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238). The Division has authority to accept and investigate complaints of non-payment of the state minimum wage, and to work with local and state prosecuting attorneys to enforce compliance. Violations of the Act are punishable by both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative claim, a worker may enforce payment of the minimum wage in civil court, using a private attorney or public legal service provider. The complainant may recover the difference between the wages paid and the minimum wage, plus interest, court costs and attorney's fees. A civil suit must be filed within 2 years of the alleged violation.

WAGE PAYMENT LAW

STATUTORY CITATION: Utah Code §§ 34-28-1 - 34-28-19

RELATED REGULATIONS: Utah Admin. Code R. 610-3

GENERAL SUMMARY: Chapter 28 of the labor statutes regulates the payment of wages in Utah, by prescribing standards relating to paydays, medium of payment, wage deductions, and final compensation. With certain exceptions, the wage payment law applies to all private employers in Utah who have one or more employees.

SPECIFIC TERMS AND CONDITIONS

The wage payment law *does not apply* to employers and employees engaged in farm, dairy, agricultural, viticultural or horticultural pursuits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ INDIVIDUAL INCOME TAX ACT (WITHHOLDING OF TAX)

STATUTORY CITATION: Utah Code §§ 59-10-401 - 59-10-408

GENERAL SUMMARY: Part 4 of the Individual Income Tax Act generally requires each employer who pays an employee wages subject to federal income tax withholding, to deduct and withhold from such wages an amount calculated to approximate the worker's liability for state income tax on the wages involved. Employers who withhold state taxes must report and forward those amounts to the state every quarter, and must furnish each worker from whom taxes were withheld during the calendar year a written statement of earnings and taxes no later than January 31 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Utah must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Utah State Tax Commission, Salt Lake City, Utah 84134 (801-297-2200; toll-free 800-662-4335).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

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Vermont

Subject Category				
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Vt. Stat. Title 21, §§ 430 - 453

RELATED REGULATIONS: Vt. Code R. 24-010-009

GENERAL SUMMARY: Vermont's child labor laws regulate the employment of minors under 16 years of age, by requiring such individuals to have a state-issued certificate as a prerequisite to employment during school hours, limiting the working hours of minors under 16 in most trades and industries, and generally prohibiting employment of minors under 16 in certain occupations regarded as hazardous to a child's health or well-being.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE -

Children Under Age 12 — With parental permission, minors under 12 may work in non-hazardous jobs during non-school hours on any farm where none of the workers are covered by the federal minimum wage (see entry, U.S. — Wages & Hours — Minimum Wage).

Children Age 12 and 13 — During vacation periods and before and after school, children 12 and 13 years of age may work in non-hazardous agricultural activities provided they have written permission from their parent or guardian, or are working on the same farm as their parent or guardian.

Children Age 14 and Over — Except for the hours limitation discussed below, there are generally no restrictions on the employment of workers 14 years old and older in non-hazardous agricultural activities.

WORKING HOURS — No child under 14 may be employed in any occupation during school hours. No child under 16 years of age may be employed for more than 8 hours in any one day or more than 40 hours in any one week.

The statutory limitations on the time of day during which minors may be employed *do not apply* to work connected with agriculture.

EMPLOYMENT CERTIFICATES — Agricultural and non-agricultural employers are forbidden from hiring any person under the age of 16 during school hours, unless the child has a certificate issued by the state authorizing such employment. Issuance of a certificate is dependent on the child's good standing in school, proof of age, and a physician's statement of the child's physical fitness.

HAZARDOUS OCCUPATIONS — Among the activities regarded as hazardous, and thus closed to children under 16, are (1) driving a tractor of over 20 PTO horsepower, (2) operating or helping to operate power harvesting equipment, (3) working from a ladder at a height of over 20 feet, and (4) driving a vehicle transporting passengers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4204). Agents of the Department are authorized to inspect workplaces where minors are employed, examine employment certificates, and take related action to determine compliance with the child labor laws. An employer who employs a child in violation of these provisions, and any person who has control of the child and permits the child's unlawful employment, are subject to a fine of up to \$5,000, a jail term of up to 6 months, or both such penalties. Likewise, it is a criminal offense, punishable by a maximum fine of \$10,000, for an employer to sell or offer for sale any commodity or product produced by illegal child labor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Vt. Stat. Title 16, §§ 1121 – 1129

GENERAL SUMMARY: Every person having control of a child between the ages of 6 and 16 must assure that the child attends a public school, an approved independent school or education program, or a home study program for the full number of days for which the school or program is held. Among other exceptions, a child who has completed the 10th grade is not subject to this requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to all custodians of school-age children regardless of employment status or occupational classification, and to all school-age children regardless of residency status.

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by truant officers appointed by the local school boards, and by local peace officers deemed truant officers ex officio by the statute. The non-enrollment or unexcused absence of any child of compulsory school age will be investigated, and in the event the child is absent without valid cause, a written notice will be served on the person or persons in whose custody the child resides. Failure to comply with the attendance requirement thereafter may result in prosecution of the custodian, who is subject to a fine of up to \$1,000 upon conviction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

FAIR EMPLOYMENT PRACTICES LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 495 - 496a

GENERAL SUMMARY: Chapter 5, Subchapter 6 of the state labor statutes defines certain unlawful practices involving discrimination in employment, applicable to virtually all agricultural and non-agricultural trades and industries in Vermont.

SPECIFIC TERMS AND CONDITIONS: Among other offenses described in the fair employment practices law, it is illegal for an employer to do either of the following:

- (1) To discriminate against an employee or job applicant because of the individual's race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age (18 or over), or to discriminate against a qualified individual with a disability.
- (2) To publish or circulate a job notice or advertisement indicating a preference, limitation or discrimination based on race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, age, or disability.

These prohibitions generally do not apply where a bona fide occupational qualification requires an employee of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, or physical or mental condition. Similarly, the law does not bar an employer from observing the terms of a bona fide seniority system or employee benefit plan which may result in distinctions on the basis of age or disability, provided the system or plan is not a subterfuge to evade the law's anti-discrimination purposes.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Civil Rights Unit, Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3657, toll-free 888-745-9195).* Representatives of the attorney general's office are authorized to conduct investigations of employment discrimination charges, and to take action through the courts to restrain prohibited acts and seek civil penalties. The agency also has authority to obtain orders for reinstatement, restitution of wages, and other appropriate relief on behalf of employees who have been subjected to unlawful discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any person aggrieved by a violation of these provisions may bring suit in superior court for damages, restitution of wages and benefits, reinstatement, and other appropriate relief.

HEALTH AND SAFETY

OCCUPATIONAL SAFETY AND HEALTH LAWS

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-039

GENERAL SUMMARY: Chapter 3, Subchapters 4 and 5 of the state labor statutes provide, in part, that (1) insofar as practicable no employee should suffer diminished health, functional capacity or life expectancy as a result of his or her work experience, (2) all employers in Vermont must furnish their employees with a job and workplace which are free from recognized hazards that could cause death or significant physical harm to their workforce, and (3) employers must comply with safety and health standards adopted by the state labor commissioner and applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Vermont's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). Aside from the agency's role in developing rules related to occupational safety, representatives of VOSHA are authorized to enter and inspect any place of employment in the state, either in response to a specific employee complaint or on their own initiative. If inspection or investigation yields evidence of a violation of these provisions, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The statutes also prescribe criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL SAFETY AND HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-039

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the labor commissioner has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Vermont's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and likewise apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

PRIMARY ENFORCEMENT AGENCY — Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). If inspection or investigation yields evidence of a violation of the field sanitation standards, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The law also prescribes criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

OCCUPATIONAL SAFETY AND HEALTH LAWS (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 - 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Vermont's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). If inspection or investigation yields evidence of a violation of the temporary labor camp standards, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 1301 - 1471

GENERAL SUMMARY: Vermont's unemployment compensation law requires most employers to pay unemployment insurance contributions to the state, in rough proportion to the dollar amount of their payroll. Contributions are used to pay weekly benefits to temporarily jobless workers who have recent earnings from insured employment and meet other eligibility criteria. Employers are generally required to pay UI contributions if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter of the current or preceding calendar year paid \$20,000 or more for agricultural labor, or (2) for any portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, must pay unemployment insurance contributions to the state. The amount of contributions payable is normally equal to the employer's total wage payments during the calendar year (up to a per-worker taxable wage limit determined by the state administering agency each year), multiplied by the employer's contribution rate, which is set annually by the administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed individual is eligible to receive benefits only if the state agency finds that the worker (1) has registered for work at the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned at least \$1,000 from insured employment in at least one such quarter and been paid additional insured wages which equal or exceed 40 percent of the wages received in the one quarter when earnings were highest.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is calculated by dividing the worker's earnings during the two quarters of the four-quarter base period in which earnings were highest by 45, but in no event may the weekly benefit amount exceed the statutorily prescribed maximum level. For any week in which an eligible claimant has earnings from part-time employment, the worker is entitled to a UI payment equal to the worker's weekly benefit amount, minus the week's part-time earnings.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4333). This agency is responsible for the collection of unemployment insurance contributions from employers determined liable for such payments, and is likewise responsible for the issuance of UI benefits to workers found eligible to receive them. The Department also hears and decides appeals filed by employers and employees regarding tax liability and benefit claims. Workers who are temporarily without a job and who believe they may qualify for benefits may file a claim by toll-free telephone, at 877-214-3330, or online at uipublic01.labor.vermont.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EMPLOYER'S LIABILITY AND WORKERS' COMPENSATION LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 601 - 711

GENERAL SUMMARY: Under the state workers' compensation law, if a worker receives a personal injury by accident arising out of and in the course of employment, the employer or the employer's insurance carrier must pay compensation for the injury. In addition to cash payments to compensate for the worker's lost earning capacity, the employer or insurer is also responsible for furnishing the job-related accident victim with medical, surgical, hospital and nursing services and supplies necessary for treatment of or recovery from the injury.

To meet their liability under the law, employers are required to either maintain a policy of workers' compensation or equivalent insurance, or provide the state with evidence of their financial ability to pay compensation directly. In the event a worker is injured in an accident while working for an employer who has failed to comply with this requirement, the worker may elect either to claim workers' compensation or to sue the employer for full damages; in any such lawsuit, the employer loses the right to claim that the injury was caused by the negligence of another employee, or that the employee assumed the risk inherent in the employment.

The law applies, with some exceptions, to any worker employed by any employer.

PROVISIONS APPLICABLE TO AGRICULTURE: Each farm operator or other agricultural establishment whose aggregate payroll in a calendar year is \$10,000 or more is subject to the workers' compensation law, and any worker engaged in agricultural services for such an employer is entitled to compensation and medical care in the event of injury on the job. If the injury contributes to the worker's death, benefits are payable to the worker's surviving dependents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — No person may discharge or discriminate against an employee because the employee has asserted a claim for workers' compensation benefits, and it is similarly unlawful for an employer to refuse to employ a job applicant on grounds that the applicant has filed a claim. Any such act of retaliation or discrimination should be reported to the state attorney general.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-2286). It is the duty of the Department to assure that employers subject to the workers' compensation law comply with the obligation to secure coverage for their employees, and to see that benefits are dispensed in accordance with prescribed standards. A worker who is injured on the job (or the dependents of a worker who dies from a job-related accident) must promptly notify the employer of the occurrence of the accident. In general, no claim for compensation is valid unless it is filed with the employer within 6 months after the injury or death of the worker. Any dispute regarding the eligibility of an individual for workers' compensation benefits, or the amount or duration of such benefits, may be referred to the Department for hearing and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Civil Rights Unit, Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3657, toll-free 888-745-9195). This agency enforces the anti-retaliation provision in the workers' compensation law.

LABOR RELATIONS AND COLLECTIVE BARGAINING

STATE LABOR RELATIONS ACT

STATUTORY CITATION: Vt. Stat. Title 21, §§ 1501 – 1624

GENERAL SUMMARY: The State Labor Relations Act assures most private-sector workers in Vermont who (1) have 5 or more employees, and (2) are not covered by the National Labor Relations Act, the right to organize, to join and assist labor organizations, to bargain collectively through representatives of their own choice, and to engage in other concerted activities for their mutual aid and protection. The Act prescribes an administrative framework for resolving questions of representation through state-supervised secret-ballot elections, and for preventing and eliminating unfair labor practices by employers and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: The State Labor Relations Act does not apply to agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Vermont Labor Relations Board, Montpelier, Vermont 05633. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE CONTROL LAW

STATUTORY CITATION: Vt. Stat. Title 6, §§ 1101 – 1112

RELATED REGULATIONS: Vt. Code R. 20-031-012

GENERAL SUMMARY: Chapter 87 of the Vermont agriculture laws grants broad authority to the state agriculture agency to regulate and license the sale, use, storage, treatment and disposal of pesticides.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION OF APPLICATORS — Agricultural producers who use or supervise the use of restricted pesticides on their crops are required to obtain a private applicator certificate from the state. Such a certificate may not be issued unless the applicant passes written examinations demonstrating competency in the safe handling of restricted-use products. Similarly, anyone who charges a fee to apply any type of pesticide must have a commercial applicator certificate, which requires passing written examinations specific to the category of operation he or she will engage in.

APPLICATOR RECORDKEEPING — Private applicators must record prescribed information concerning each application of restricted-use pesticides, including the product name and EPA registration number, the amount used, the date of application, the location of the treatment, and the pest or pests targeted. Commercial users are required to make similar records and to annually report all pesticide usage to the state agency.

PESTICIDE STORAGE AND DISPOSAL — Among other requirements and restrictions, pesticide storage areas must not be accessible to unauthorized users or to wildlife. Excess pesticides and pesticide containers must be disposed of in accordance with instructions on the product label.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431). This agency has authority to license and certify pesticide applicators in the state, and to revoke or suspend licensing and certification for failure to adhere to the regulations governing their operations. The agency is authorized to levy an administrative penalty of up to \$1,000 for each violation committed by a private applicator, and up to \$5,000 per violation committed by a commercial or non-commercial applicator. In addition, the law provides for a civil fine of up to \$25,000 for any violation of the statutory or regulatory pesticide provisions, and violators may be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Vt. Stat. Title 6, §§ 1101 – 1112

RELATED REGULATIONS: Vt. Code R. 20-031-012

GENERAL SUMMARY: In addition to the provisions regulating ground application of pesticides, the state agriculture agency has adopted explicit standards relevant to application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS: Individuals who apply pesticides from the air must be certified as aircraft pest control applicators and must obtain certification in the specific category of activity in which they will engage, which may include agriculture. To qualify for certification, the applicant must pass prescribed examinations to assure the individual's skill and knowledge regarding the safe application of pesticides from the air. Among the topics tested are weather and drift, calibration of aerial equipment, pesticide loading procedures, and labeling. Furthermore, aerial operators must obtain an annual permit before treating agricultural commodities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431). This agency is responsible for licensing and certifying aerial pesticide applicators in the state, and is authorized to revoke or suspend licensing and certification for failure to adhere to the regulations governing their operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE AERONAUTICS LAWS (OPERATION OF AIRCRAFT)

STATUTORY CITATION: Vt. Stat. Title 5, § 426

RELATED REGULATIONS: Vt. Code R. 14-010-001 Part XI

GENERAL SUMMARY: Section 426 of the Vermont aeronautics laws authorizes the state transportation agency to promulgate rules regulating the operation of aircraft engaged in crop dusting or spraying activities.

SPECIFIC TERMS AND CONDITIONS: At least 10 days before making a flight for the purpose of crop dusting or spraying pesticides, the owner of the aircraft to be used must apply to the state for authority to do so. Permission to conduct aerial pesticide operations must be renewed annually.

In addition to obtaining authorization under the state aeronautics laws, the applicator must also have a valid pesticide operator's or applicator's license issued by the state agriculture department for the appropriate type of aerial pesticide application to be performed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Aviation Section, Operations Division, Vermont Agency of Transportation, Montpelier, Vermont 05633 (802-828-2723). This agency is responsible for reviewing applications for authorization to apply pesticides by aircraft. Failure to comply with these provisions is punishable by a \$500 fine, imprisonment for up to 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-3475). This agency is responsible for certification of aerial pesticide applicators, which is a prerequisite for issuance of an annual permit to engage in aerial pesticide operations.

○ OCCUPATIONAL SAFETY AND HEALTH LAWS (HAZARD COMMUNICATION)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Vermont's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). If inspection or investigation yields evidence of a violation of the hazard communication requirements, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The law also prescribes criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ OCCUPATIONAL SAFETY AND HEALTH LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 - 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Vermont's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 381 – 397

GENERAL SUMMARY: With some exceptions, no one in Vermont who has 2 or more employees may employ any such worker at a wage rate less than \$10.00 an hour beginning January 1, 2017 (\$10.50 an hour beginning January 1, 2018).

On January 1 each year starting in 2019, the state minimum wage rate will be increased by 5 percent, or by the percentage increase in the consumer price index, whichever is smaller. In no event, however, may the minimum wage be decreased from one year to the next.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 381 – 397

GENERAL SUMMARY: Apart from establishing an hourly pay floor, the minimum wage law requires many employers with 2 or more employees to pay each covered worker no less than 1¹/₂ times the worker's regular rate of pay for every hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law, and hence the overtime provision, does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 341 - 348

GENERAL SUMMARY: Chapter 5, Subchapter 2 of the state labor statutes sets general standards for the payment of wages, including provisions governing paydays, pay periods, and the method of payment. The wage payment law applies equally to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Workers must be compensated weekly, unless the employer gives written notice of intention to pay bi-weekly or semi-monthly. In any case, not more than 6 days may elapse between the end of a pay period and the corresponding date of payment.

FINAL WAGES — A worker who voluntarily leaves the job must receive final pay on the next regularly scheduled payday (or on the following Friday, if there is no regular payday). An employee who is discharged from employment must be paid in full within 72 hours after discharge.

METHOD OF PAYMENT — Under most circumstances, wages may not be paid in any form other than (1) in lawful money, (2) by check, (3) by direct deposit to a financial institution, or (4) credit to a payroll card account in a federally insured financial institution.

Wage payments by payroll card are permitted only after certain written disclosures are made to the employee, and only with the employee's consent. A payroll card account must allow the worker at least 3 free withdrawals, one of which must permit withdrawal of the entire balance, and none of the employer's costs associated with the account may be passed on to the worker.

Payment of wages using vouchers, scrip, store orders, or other non-cash medium is generally prohibited.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or otherwise retaliate against an employee because (1) the employee lodged a complaint of a violation of the wage payment law, (2) the employee has cooperated with the enforcement agency in an investigation of a violation, or (3) the employer believes the employee may lodge such a complaint or cooperate in such an investigation. A worker who has suffered from an act of retaliation may take action in civil court for damages, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4204). A worker who has not received all wages due may file a complaint with the Department, and the agency is obligated to investigate the claim and try informally to effect payment if the claim is valid. If informal measures fail, the Department has authority to impose a civil penalty of up to \$5,000 against an employer who fails to pay wages as required and may enforce a final order for collection in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who does not receive his or her earnings in conformity with these provisions may recover twice the amount of any unpaid wages in a civil suit against the offending employer.

■ INCOME TAX LAW (WITHHOLDING OF TAXES AT THE SOURCE)

STATUTORY CITATION: Vt. Stat. Title 32, §§ 5841 – 5847

GENERAL SUMMARY: Every person who is required under the Internal Revenue Code to withhold federal income tax from a worker's wages must also deduct and withhold a prescribed amount calculated to approximate the worker's year-end state income tax liability on the earnings. Withheld state taxes must be remitted to the state at least once every three months.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Vermont must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Division, Vermont Department of Taxes, Montpelier, Vermont 05633 (802-828-2865; toll-free 866-828-2865).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

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Virginia

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Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: Va. Code §§ 40.1-78 – 40.1-116

RELATED REGULATIONS: 16 Va. Admin. Code §§ 15-40-10 – 15-50-50

GENERAL SUMMARY: With limited exceptions, the state child labor law establishes a minimum age of 14 for lawful employment in Virginia, limits the working days and hours of minors under 16, forbids the employment of a person under 16 unless the employer has on file an employment certificate issued to the child by the local school district, prohibits child labor in certain hazardous or harmful occupations, and requires employers to keep a record of the work time of each minor in their employ.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast with the minimum age of 14 applicable to most other occupational categories, children as young as 12 years old may be employed in non-hazardous operations on farms and in orchards with no other restrictions, provided the employment takes place outside school hours and they have the consent of their parent or guardian.

HOURS LIMITATIONS — The restrictions on the days and hours of employment applicable to most other occupational categories *do not apply* to minors working on farms and in orchards.

MEAL PERIODS — No child may be employed or permitted to work for more than 5 continuous hours without a meal break of at least 30 minutes.

EMPLOYMENT CERTIFICATES — The requirement that employers of minors under the age of 16 obtain and keep on file an employment certificate authorizing such employment *does not apply* to minors working on farms and in orchards.

HAZARDOUS OCCUPATIONS — No child under 16 years old may be employed in an occupation declared hazardous by the state labor commissioner. Among the prohibited agricultural occupations are (1) operating a tractor of over 20 PTO horsepower, (2) operating or helping to operate power-driven harvesting machines, (3) working from a ladder at a height of over 20 feet, (4) working inside a grain elevator or silo, (5) driving a motor vehicle transporting passengers, and (6) handling or applying pesticides, anhydrous ammonia or other agricultural chemicals.

RECORDKEEPING — Every farm operator or other agricultural establishment that employs anyone under 16 years of age on days when school is in session, or on any day if the minor is working in a hazardous occupation, must keep a record of the child's full name, current and permanent address, and date of birth.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104). This agency is responsible for enforcing the child labor provisions, and as such has authority to receive and investigate related complaints. The Department may impose a civil penalty of up to \$1,000 for each violation, and up to \$10,000 for a violation that results in a child's serious injury or death.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Va. Code §§ 22.1-254 - 22.1-269.1

GENERAL SUMMARY: In general, every parent, guardian or other person in Virginia having control or charge of a child who has reached the age of 5 by September 30 in any school year, but who is not yet 18, must send the child to a public, private, denominational or parochial school, or have the child privately taught or tutored, during the entire period in which the public schools are in session, and for the same number of days and hours. However, the parents of a child who is 5 years old by September 30 may be excused from this requirement if they notify the appropriate local school board that they do not want the child to attend school until the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law applies to all persons having custody of a child in the affected age range, regardless of the employment status or occupational classification of the custodian or child.

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced locally by school attendance officers appointed for that purpose by the local school boards. Attendance officers are required to investigate unexplained absence or non-enrollment of all children of compulsory school age within their respective districts, and whenever a child is found absent with no valid excuse for a total of 5 scheduled school days, the attendance officer must notify the child's parent or guardian of the attendance requirement and try to resolve the issues related to the child's non-attendance. Continued failure to comply with the law may result in a complaint to the juvenile and domestic relations court. Violation of the school attendance law is classified as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — State Board of Education, Virginia Department of Education, Richmond, Virginia 23218 (804-225-2924). It is the Board's duty to see that the compulsory attendance provisions are properly enforced throughout the state.

CIVIL RIGHTS

VIRGINIA HUMAN RIGHTS ACT

STATUTORY CITATION: Va. Code §§ 2.2-3900 - 2.2-3903

GENERAL SUMMARY: Among other provisions, the Virginia Human Rights Act (1) prohibits certain acts of employment discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, and age, and (2) prescribes procedures for resolving complaints of employment discrimination on those grounds. The law applies to employers in certain size categories, but protects employees without regard to their industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is generally unlawful for an employer with more than 5 but fewer than 15 employees to discharge any such employee on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions (including lactation).

Likewise, no employer with more than 5 but fewer than 20 employees may discharge any such employee on the basis of age, if the employee is 40 years old or older.

COMPLAINTS — A worker aggrieved by an apparent act of employment discrimination may submit a complaint to the state enforcement agency, which is authorized to investigate it, determine if there is reasonable cause to believe discrimination occurred, and render a final disposition of the complaint.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Human Rights and Fair Housing, Virginia Office of the Attorney General, Richmond, Virginia 23219 (804-225-2292). This agency investigates complaints alleging discrimination in violation of the state Human Rights Act or corresponding federal laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative complaint with the Division of Human Rights, a worker may take civil action against an employer who violates the Act's employment discrimination provision, using a private attorney or public legal service provider. Such action must be filed no later than 300 days after the worker was unlawfully discharged; if the worker filed the complaint with the Division of Human Rights first, civil action must commence no later than 90 days after the date the Division has rendered a final disposition of the complaint. The court may award up to 12 months' back pay, with interest, plus attorney's fees.

EQUAL PAY LAW

STATUTORY CITATION: Va. Code § 40.1-28.6

GENERAL SUMMARY: No employer in Virginia may discriminate between employees on the basis of sex, by paying wages to any worker at a rate less than the rate the employer pays workers of the opposite sex in the same establishment for equal work, on jobs which require equal skill, effort and responsibility and are performed under similar working conditions. This does not preclude an employer's use of a seniority system, merit increase program, a system which measures earnings by quantity or quality of production, or any other wage differential based on any factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to all agricultural and non-agricultural employers not subject to the federal Equal Pay Act (see entry, U.S.—Civil Rights—Wage Discrimination).

PRIMARY ENFORCEMENT AGENCY — Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104). The Division is authorized to conduct investigations to determine if complaints charging unequal pay for equal work because of sex are valid. Whenever such a violation is confirmed, the Division will advise the employer to correct the condition, but the agency does not have the statutory right to take legal action against a violator to eliminate the discrimination or to recover wages owing to a worker as a result.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has not received full wages because of unlawful sex discrimination may bring suit against the employer, using private legal counsel. Any such action may be commenced within 2 years after the claim arises, and a worker whose wages are found to have been wrongfully withheld in violation of the equal pay law has a right to recover damages equal to twice the amount of the unpaid wages.

HEALTH AND SAFETY

OCCUPATIONAL SAFETY AND HEALTH LAWS

STATUTORY CITATION: Va. Code §§ 40.1-49.3 - 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-190-1928

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards. Apart from the rulemaking and enforcement provisions is additional legislative language requiring employers (1) to furnish their employees with a job and workplace free from recognized hazards which could cause death or serious physical harm, and (2) to comply with all state occupational safety and health standards applicable to their respective operations.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Virginia's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

OCCUPATIONAL SAFETY AND HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 - 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-180-10

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state safety and health codes board has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Virginia's field sanitation standards are virtually identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and, except for the drinking water requirement, apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field. All agricultural employers must provide drinking water to their employees in the fields, regardless of the number of workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

HOUSING

OCCUPATIONAL SAFETY AND HEALTH LAWS (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 - 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Virginia's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MIGRANT LABOR CAMP LAW

STATUTORY CITATION: Va. Code §§ 32.1-203 – 32.1-211

RELATED REGULATIONS: 12 Va. Admin. Code §§ 5-501-10 - 5-501-350

GENERAL SUMMARY: Article 6 of the environmental health laws regulates the operation of migrant labor camps in Virginia, briefly defined as one or more structures, vehicles or unconventional enclosures used as living quarters for one or more persons, at least one of whom is a migrant worker engaged in agricultural activities, including related food processing.

SPECIFIC TERMS AND CONDITIONS

NOTICE OF INTENT TO CONSTRUCT — Any party planning to construct, remodel or enlarge a migrant labor camp, or to convert property for use as a camp, must notify the state enforcement agency in writing of the intent to do so at least 30 days before commencing any such work. In response, the state agency must furnish the party with a copy of the migrant labor camp law and applicable regulations.

PERMITS — It is unlawful for anyone to operate a migrant labor camp, or allow such a facility to be occupied or used, without a permit from the state. A permit application must be submitted to the state agency at least 30 days before the camp is to be opened. If, after required inspection, the agency finds that the facility conforms to statutory and regulatory standards, a permit will be issued for the balance of the calendar year. The agency may issue a provisional permit, valid for up to 30 days, authorizing operation of a camp which does not conform to standards, provided such operation will not create an imminent danger to public health and safety.

INSPECTIONS — After the initial permit inspection, local health department staff are responsible for inspecting the camp for compliance with the regulatory standards outlined below. A camp may be inspected as often as necessary during occupancy, and the local health department may move to suspend or revoke the permit of any facility found out of compliance.

REGULATORY STANDARDS — Migrant housing built or under construction prior to April 3, 1980, or for which a construction contract was signed prior to March 4, 1980, is subject to the housing standards established by either the U.S. Employment and Training Administration (see entry, U.S. — Housing — Farm Labor Housing Standards) or the U.S. Occupational Safety and Health Administration (U.S.—Housing—General Employee Housing Standards), at the discretion of the individual camp operator. All migrant housing built or contracted for after the dates cited are subject to the OSHA standards. In addition, housing facilities subject to the state migrant labor camp law must meet the following supplemental requirements:

Trash and Garbage Collection — Camp operators must either provide a bulk container into which family trash containers may be emptied, or arrange for regular trash collection service. Refuse from individual units or from bulk containers must be disposed of by the camp operator in accordance with state solid waste regulations.

Water Supply — All camps subject to this law must have a state-approved water supply.

Sewage Disposal — Migrant labor camps must comply with state sewage-disposal regulations.

Hazardous Materials — Agricultural pesticides and toxic chemicals may not be stored in any housing or dining area. Pesticide storage facilities must generally be at least 100 feet from wells or surface water, must be clearly marked to indicate that hazardous materials are stored within, and must be locked when not in use.

Construction Standards — In general, all structures must be in conformity with the uniform statewide building code.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Environmental Health Services, Virginia Department of Health, Richmond, Virginia 23219 (804-864-7473). This agency is responsible for inspecting and issuing permits for migrant labor camps in Virginia, and for assuring their continued compliance with the law and applicable regulations. The Department may deny, revoke or suspend a camp permit whenever the facility is found in violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Local health departments share responsibility for periodic inspections of migrant labor camps, to check compliance with the labor camp law and regulations.

INSURANCE AND COMPENSATION

VIRGINIA UNEMPLOYMENT COMPENSATION ACT

STATUTORY CITATION: Va. Code §§ 60.2-100 - 60.2-637

GENERAL SUMMARY: The Virginia Unemployment Compensation Act establishes an unemployment compensation fund in the state treasury, into which most employers are required to pay taxes in proportion to their taxable wage payments. The fund is used to finance unemployment insurance benefits for jobless workers who have recent earnings from insured employment and meet other eligibility criteria. With some exceptions, employers must pay unemployment contributions if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid \$20,000 or more in agricultural wages in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for any part of a day in each of 20 different calendar weeks in a calendar year, must pay unemployment insurance taxes to the state. The amount of the tax is normally computed as an annually assigned percentage of the first \$8,000 in wages paid to each employee, the tax rate depending on the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In brief, an unemployed individual is eligible to receive benefits only if the state administering agency finds that the worker (1) is not unemployed as a result of involvement in a labor dispute, (2) is not receiving UI benefits from another state, (3) is not on paid vacation, (4) has registered for work with the state employment service and continued to report periodically thereafter, (5) has made a claim for benefits, (6) is able to work, available for work, and actively seeking work, (7) has served a one-week waiting period, and (8) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, had earnings in at least two of the four quarters and earned at least \$3,000 from UI-covered employment in the two quarters in which earnings were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount depends on the earnings in the two high-earnings quarters of the base period mentioned above, but the benefit amount may currently range from \$60 to \$378 per week. The UI payment for any week of unemployment is equal to the weekly benefit amount, minus that portion of the week's part-time earnings, if any, which exceeds \$50.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment taxes, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Compensation Division, Virginia Employment Commission, Richmond, Virginia 23219 (804-786-3061). The Commission is responsible for administering all aspects of the Unemployment Compensation Act, including determination of employer liability for UI taxes, collection of taxes, determination of worker eligibility for UI benefits, payment of benefits, and adjudication of tax and benefit appeals. Unemployment compensation claims may be filed by toll-free telephone, at 866-832-2363, or online, at www.vec.virginia.gov/unemployed/online-services/apply-for-unemployment-benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ VIRGINIA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Va. Code §§ 65.2-100 – 65.2-1206

GENERAL SUMMARY: The Virginia Workers' Compensation Act makes most employers in the state liable for the payment of compensation in the event of personal injury or death of an employee in a job-related accident, or for the disablement or death of a worker from an occupational disease. In addition, employers must cover the cost of medical attention and vocational rehabilitation required as a result of the accident or disease.

Every employer subject to the Act must insure the liability to pay compensation by (1) purchasing a prescribed workers' compensation insurance policy and keeping it in effect, (2) obtaining membership in a licensed group self-insurance association, (3) providing the state with proof of financial ability to pay compensation directly, or (4) entering into an agreement with a professional employer organization. An employer who complies through one of these four options is generally protected against all further claims in connection with a compensable injury, illness or death, and the worker or worker's dependents have no further legal recourse. On the other hand, an employer's refusal or neglect to secure workers' compensation coverage is punishable by a fine of up to \$50,000 and exposes the employer to a damage suit for each occupational injury or disease that may occur; in any such suit the Act strips the employer of the right to claim as a defense that the injury resulted from the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury or disease.

With some exceptions, the requirements of the act apply to employers with 3 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that regularly employ more than 3 full-time employees are subject to the Workers' Compensation Act, and farmworkers performing services for such an employer are entitled to compensation for lost wages and medical treatment for injury on the job.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer is prohibited from firing an employee solely because the employee has filed or intends to file a workers' compensation claim, or because the employee has testified or is about to testify in any workers' comp-related proceeding. A worker who has suffered from such retaliation may bring civil action against the employer for damages, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Virginia Workers' Compensation Commission, Richmond, Virginia 23220 (toll-free 877-664-2566). The Commission is responsible for assuring that employers subject to the Act secure workers' compensation insurance or have alternative means of providing compensation for their employees, and for seeing that eligible claimants receive the benefits to which they are entitled. The right to benefits may be lost unless the employee files a claim with the Commission within 2 years from the date of the accident (or, in the case of an occupational disease, within 2 years from the date the doctor tells the employee the disease is work-related, or 5 years from the date the employee was last exposed to the work condition causing the disease, whichever is sooner). A worker who has suffered an injury in connection with employment (or the dependent of any worker killed or injured on the job) who disputes or questions a decision by an employer or insurance carrier concerning workers' compensation coverage, eligibility or benefits, may apply to the Commission for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

VIRGINIA PESTICIDE CONTROL ACT

STATUTORY CITATION: Va. Code §§ 3.2-3900 – 3.2-3947

RELATED REGULATIONS: 2 Va. Admin. Code §§ 5-670-10 - 5-690-240

GENERAL SUMMARY: Among other provisions, the Virginia Pesticide Control Act requires the certification of commercial and private users of pesticides in the state, makes certification contingent on meeting prescribed competencies with respect to handling and use of pesticide products, imposes certain recordkeeping and reporting duties on pesticide businesses and certain applicators, and defines various prohibited activities. The state agriculture board is authorized under the Act to adopt administrative regulations further controlling the use and application of pesticide products in Virginia.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION — All commercial pesticide applicators, as well as private agricultural users of restricted-use pesticides, must be certified as competent to utilize such formulations safely and effectively. As conditions for certification, commercial applicators are required to (1) meet certain minimum education or experience qualifications, and (2) complete a state-approved training course and pass a written examination.

Within 90 days after applying for certification, private applicators must take an examination for each pesticide application category in which they plan to engage.

RECORDKEEPING — Most pesticide application businesses, including individual applicators who apply general-use or restricted-use pesticides for hire, must keep a record of each pesticide application. The record must include the name of the property owner, the location of the treated area, the date of the application, the crop and crop pests targeted, the name and EPA registration number of the pesticide product applied, the amount of pesticide applied, and the type of application equipment used.

Private or not-for-hire applicators are subject to similar recordkeeping requirements.

FINANCIAL RESPONSIBILITY — Licensed pesticide application businesses (which may include individual pesticide applicators) must, before the license is issued, furnish the licensing agency with evidence of a surety bond or liability insurance protecting persons who may suffer legal damages as a result of the misapplication of pesticides; this requirement does not extend to agricultural establishments that do not sell or distribute pesticides. At a minimum, the bond or insurance must provide at least \$100,000 coverage for property damage, \$100,000 for personal injury to or death of one person, and \$300,000 per occurrence.

PROHIBITED ACTS — Each of the following acts, among others, is unlawful and constitutes grounds for denial, suspension or revocation of licensing and certification:

- Use or disposal of any pesticide contrary to label instructions or restrictions.
- (2) Application of pesticides in a negligent manner.
- Refusal or failure to keep required records or make required reports.
- (4) Use of a restricted-use pesticide without certification or direct supervision by a certified applicator.

DAMAGE REPORTS — Anyone claiming damages from the use or application of a restricted-use pesticide may file a written report of the incident with the state agency. The agency must attempt to inspect the damage and make its findings available to the parties involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Office of Pesticide Services, Virginia Department of Agriculture and Consumer Services, Richmond, Virginia 23218 (804-786-3798; 804-371-6560). The Department has responsibility for the licensing and certification of pesticide applicators in the state, and for enforcing compliance with the statutory and regulatory provisions governing their operations. Representatives of the Department may enter any public or private property for the purpose of inspecting pesticide application equipment, inspecting storage or disposal areas, investigating complaints of injury to humans or property, sampling pesticides, or taking other action to determine and enforce compliance with the Pesticide Control Act. Any person violating the Act or the associated regulations is guilty of a Class 1 misdemeanor, and subject to an additional fine of up to \$500,000 if death or serious bodily injury results from the violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

○ OCCUPATIONAL SAFETY AND HEALTH LAWS (HAZARD COMMUNICATION)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 – 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Virginia's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL SAFETY AND HEALTH LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 – 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Virginia's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

VIRGINIA MINIMUM WAGE ACT

STATUTORY CITATION: Va. Code §§ 40.1-28.8 – 40.1-28.12

GENERAL SUMMARY: The Virginia Minimum Wage Act requires most employers with 4 or more employees at any one time who are not covered by the federal minimum wage, to pay each worker no less than the federal minimum wage (currently \$7.25 per hour).

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Act does not apply to anyone employed as a farm laborer or farm employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGE PAYMENT LAW

STATUTORY CITATION: Va. Code §§ 40.1-29 - 40.1-33

GENERAL SUMMARY: Chapter 3, Article 2 of the Virginia labor statutes contains provisions governing wage payments in the state, applicable to all agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — All employers must establish regular pay periods and, in general, must pay salaried personnel at least once a month and hourly workers at least twice a month or every 2 weeks.

FINAL WAGES — Upon termination of employment, a worker is entitled to final pay on or before the date the worker would have been paid for the services involved had the employment not terminated.

MEDIUM OF PAY — Employers are not permitted to pay wages in any form other than (1) in lawful U.S. money, (2) by check payable at face value in lawful U.S. money on demand, (3) by electronic fund transfer, in lawful U.S. money to an account at a financial institution designated by the employee, or (4) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds.

DEDUCTIONS — No employer may withhold any part of a worker's wages without the signed authorization of the worker, except for payroll or withholding taxes or in accordance with law. Furthermore, an employer may not compel a wage worker to sign any contract or agreement providing for the forfeiture of the worker's wages as a condition for hiring or continued employment unless authorized by law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104). Any worker who does not receive pay as required by these provisions, or who is subjected to any practice forbidden by these provisions, may file a complaint with the Department. After investigation and with the written consent of the worker, the Department may bring suit against the employer to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INCOME TAX WITHHOLDING LAW

STATUTORY CITATION: Va. Code §§ 58.1-460 – 58.1-486

GENERAL SUMMARY: Every employer making payment of wages in Virginia must deduct and withhold from the wages of each employee, for each payroll period, an amount calculated to approximate the employee's state income tax liability on such wages at year's end. At regular intervals throughout the calendar year, withheld state taxes must be forwarded to the tax commissioner, along with a return. No later than January 31 of the ensuing year the employer must furnish each employee from whom taxes were withheld a written statement showing the employer's name, the name and Social Security number of the employee, the total amount of wages paid for the year, and the total amount of state income tax deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: For state income tax purposes, Virginia conforms to the federal definition of income subject to withholding, and thus generally requires state withholding on any payment for which federal withholding is required. Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year must deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Virginia must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Virginia Department of Taxation, Richmond, Virginia 23218 (804-367-8037). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

Washington

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Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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CHILD LABOR

■ INDUSTRIAL WELFARE LAWS (WAGES AND WORKING CONDITIONS OF MINORS)

STATUTORY CITATION: Wash. Rev. Code § 49.12.121

RELATED REGULATIONS: Wash. Admin. Code §§ 296-131-001 - 296-131-140

GENERAL SUMMARY: The state labor department is authorized to investigate the wages, hours and working conditions of minors employed in any trade, business or occupation in Washington, and to adopt related rules for the protection of the safety, health and welfare of workers under 18 years of age.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted administrative rules regulating the employment of minors in agriculture, key provisions of which are summarized here:

MINIMUM AGE — While minors under the age of 14 are generally barred from employment in agricultural and non-agricultural occupations, 12- and 13-year-old children may be employed in the hand harvest of berries, bulbs and cucumbers, and in the hand cultivation of spinach, during weeks when school is not in session.

MAXIMUM HOURS — Minors legally required to attend school generally may not work during school hours.

Minors Under Age 16 — With slightly more flexibility than their counterparts working in non-agricultural pursuits, when school is in session minors under the age of 16 may work in agricultural jobs up to 3 hours a day on school days, up to 8 hours a day on non-school days, and up to 21 hours a week. When school is not in session, minors under 16 may work up to 8 hours a day and 40 hours a week.

Minors Age 16 and 17 — When school is in session, 16- and 17-year-olds may work up to 28 hours a week, 4 hours a day on school days, and 8 hours a day on non-school days. When school is not in session, they may be employed for up to 10 hours a day and 50 hours a week (or up to 60 hours a week in the mechanical harvest of peas, wheat and hay).

In general, no minor may be employed for more than 6 days in any one week.

TIME-OF-DAY RESTRICTIONS — On days when school is in session, minors under the age of 16 generally may not be employed before 7:00 a.m. or after 8:00 p.m. When school is not in session, employment of workers under 16 is generally prohibited before 5:00 a.m. and after 9:00 p.m.

In most cases, 16- and 17-year-olds may not be employed before 5:00 a.m. or after 9:00 p.m., but may work until 10:00 p.m. on up to two consecutive nights preceding a school day.

MEAL AND REST PERIODS — On slightly less favorable terms than their counterparts in non-agricultural workplaces, minors and other workers employed in agriculture for more than 5 hours on a given day are entitled to a meal period of at least 30 minutes; employees working 11 or more hours a day must be allowed at least one additional 30-minute meal period. Likewise, every employee must be allowed a paid rest break of at least 10 minutes in each 4-hour period of employment.

EMPLOYMENT PERMITS — Within 3 days after employing anyone under 18 years of age for agricultural work, the employer must apply to the state labor department for a permit to employ minors. If approved, the permit will authorize the employer to employ any number of minors at the same workplace, for up to one year.

PROHIBITED WORK — Among many other hazardous occupations listed in the agricultural regulations, children under the age of 16 are prohibited from (1) operating a tractor of over 20 PTO horsepower, (2) operating or assisting in the operation of power-driven harvesting machines, (3) working from a ladder at a height of more than 20 feet, (4) driving a motor vehicle carrying passengers, and (5) working inside a silo or grain storage facility. No minor may be employed in mixing, handling, loading or applying pesticides, anhydrous ammonia or other hazardous agricultural chemicals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). This agency is authorized to receive and investigate complaints of alleged violations of the state labor laws, including the child labor provisions summarized here.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ MISCELLANEOUS AGRICULTURAL LAWS (BERRY HARVESTING BY MINORS)

STATUTORY CITATION: Wash. Rev. Code §§ 15.04.150 - 15.04.160

GENERAL SUMMARY: Chapter 15.04 of the state statutes contains an exception to the child labor regulations, permitting the use of children younger than 12 years of age in the harvesting of berries under certain conditions. These restrictions do not apply to any employer who is not subject to the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage).

SPECIFIC TERMS AND CONDITIONS: A child under the age of 12 may be employed to pick berries in Washington outside local school hours, provided that all of these conditions are met:

- Employment is with the consent of the child's parent or person standing in the place of the parent.
- (2) The berries involved are for sale within the state only and not for out-of-state shipment in any form.
- (3) There are not sufficient workers available in the immediate area to harvest the crop without the labor of workers under 12.
- (4) The employer pays all of the workers engaged in the berry harvest at the same wage rate.

Each basket, package or other container holding berries or berry products picked by an employee under 12 years of age must be distinctively marked to ensure that the berries do not enter interstate commerce.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department has both the power and the duty to enforce all state laws relating to employment, including the special child labor provisions for the harvest of berries. Representatives of the Department may enter any place of employment for the purpose of inspecting working conditions and investigating reported or suspected violations of the labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O DOMESTIC RELATIONS LAWS (CHILD LABOR PENALTY)

STATUTORY CITATION: Wash. Rev. Code § 26.28.060

GENERAL SUMMARY: With few exceptions, it is a misdemeanor for anyone to employ a child under the age of 14 in the state of Washington without the written consent of a superior court judge. The parent, guardian or other person having custody or control of a child under 14 who allows the child to be employed without such consent is subject to criminal prosecution to the same extent as the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision does not apply to farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced by local prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 28A.225.005 - 28A.225.330

GENERAL SUMMARY: The parent or legal guardian of any child who is at least 8 years of age and under 18 must cause the child to attend a public school in the district in which the child resides, for the full length of the school term, unless the child is attending an approved private school or is receiving approved home-based instruction. Among other, more narrow exceptions, minors 16 years old and over who (1) have met certain educational competency requirements and (2) are regularly and lawfully employed with parental consent, are exempt from the compulsory attendance requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to the parents or legal custodians of children in the affected age group without regard to occupational classification.

PRIMARY ENFORCEMENT AGENCY — The compulsory school attendance law is enforced by the local school districts, through attendance officers and other school personnel appointed for that purpose. Attendance officers are authorized to enter all places where children may be employed, to take into custody any child of compulsory school age who is found truant, and to investigate the circumstances of unexplained absence or non-enrollment of such a child. If, after written notice to the parent or guardian and informal efforts to achieve compliance, a child continues to be absent from school without a valid excuse, a petition may be filed requesting juvenile court to assume jurisdiction. The person responsible for the child's attendance is subject to a fine of up to \$25 for each day of the child's unexcused absence from school.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

LAW AGAINST DISCRIMINATION

STATUTORY CITATION: Wash. Rev. Code §§ 49.60.010 - 49.60.505

GENERAL SUMMARY: The Law Against Discrimination prohibits certain forms of discrimination in employment and other settings, and creates a state agency with the power to prevent and eliminate such practices. The employment provisions apply to most agricultural and non-agricultural establishments with 8 or more employees.

SPECIFIC TERMS AND CONDITIONS

UNFAIR EMPLOYMENT PRACTICES — Among other prohibited acts, it is generally unlawful for any employer subject to these provisions to engage in any of the following practices:

- (1) To refuse to hire a person because of age (40 and over), sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal), unless such refusal is based on a bona fide occupational qualification.
- (2) To discharge a person from employment because of age, sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal).
- (3) To discriminate against a person in compensation or in other terms or conditions of employment on any of the above-mentioned grounds.
- (4) To print or circulate any statement or advertisement, use any form of job application, or make any inquiry in connection with employment, which expresses any preference, limitation or discrimination as to age, sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal).

Employment agencies and labor unions are subject to similar prohibitions.

COMPLAINTS — Anyone claiming to be aggrieved by an unfair employment practice may file a complaint with the state enforcement agency within 6 months after the alleged discriminatory act. If staff investigation finds reasonable cause to believe an unfair practice has been or is being committed by the employer or other respondent named in the complaint, the staff must attempt to eliminate the violation through conference, conciliation and persuasion. Failure to informally arrive at a conciliation agreement will normally lead to a formal hearing of the complaint by an administrative law judge, and if evidence presented at the hearing supports the validity of the charges, the judge will issue an order requiring the respondent to cease the unlawful practice and to take appropriate corrective action.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Washington State Human Rights Commission, Olympia, Washington 98504 (toll-free 800-233-3247). In investigating complaints of violations under the Law Against Discrimination, the Commission may hold hearings, subpoena witnesses and documents, and compel testimony. In addition to other forms of relief, the Commission has authority to award damages of up to \$20,000 for humiliation and mental suffering caused by a prohibited act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INDUSTRIAL WELFARE LAWS (EQUAL PAY)

STATUTORY CITATION: Wash. Rev. Code § 49.12.175

GENERAL SUMMARY: It is a misdemeanor for an employer in the state of Washington to discriminate between the sexes in the payment of wages, by paying females a lower wage or salary than that paid to males similarly employed. However, the use of pay differentials based in good faith on factors other than gender does not constitute discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies in agriculture to the same extent as in any other employing sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*

PRIVATE CIVIL ACTION — A worker who has received less than full compensation on account of sex discrimination prohibited by this provision is entitled to recover the unpaid wages in a civil suit, using a private attorney or public legal service provider.

AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Wash. Rev. Code § 49.44.090

GENERAL SUMMARY: In general, it is an unfair practice for an employer to refuse to hire a job applicant, to fire an employee, or to discriminate against an applicant or employee in promotion, compensation, or other terms or conditions of employment, because the applicant or employee is 40 years of age or older.

Subject to state approval, however, an employer may establish reasonable minimum and maximum age limits for job candidates when the position involved requires extraordinary physical effort, endurance or training.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment provisions apply equally to agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department has authority to enforce all state laws relating to employment, including the age discrimination provisions. Representatives of the Department may enter any place of employment for the purpose of inspecting working conditions and investigating reported or suspected violations of the labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts B, C, D, E, F

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, employers are obligated to furnish their employees a place of employment free from recognized hazards which could cause serious injury or death, and to comply with the specific health and safety rules promulgated under the Act which apply to their respective places of employment. Using the Act's authority to develop and enforce workplace standards to protect the safety and health of the state's workforce, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers, workers and workplaces. Key provisions most relevant to farmworkers in the field are briefly summarized below.

SPECIFIC TERMS AND CONDITIONS

ACCIDENT PREVENTION AND FIRST AID — Agricultural employers are required to develop a written accident prevention program that includes, among other elements, (1) how, when and where to report injuries and illnesses, (2) how to report unsafe conditions and practices, (3) the use and care of personal protective equipment, (4) emergency procedures, and (5) identification of hazardous materials and how to use them safely. Employers must provide their workers with instruction in safe work practices at the beginning of their employment, and at least once a month employers must conduct a walk-around safety inspection of active job sites, materials, equipment, and operating procedures. A representative chosen by the workers must be invited and allowed to accompany the employer on the inspection.

In the absence of a nearby clinic or hospital to treat injured employees, a person must be adequately trained to render first aid. Appropriate first aid supplies must be on hand and easily accessible to all employees, and where there is potential for major exposure of a worker's body or eyes to corrosive materials or toxic chemicals, the employer must provide emergency washing facilities.

HAND TOOLS — The use of hoes with handles less than 4 feet long, or any hand tool used for weeding or thinning crops in a stooped position, is prohibited.

ORCHARD LADDERS — At the beginning of employment, employers who require workers to use ladders for tree maintenance or harvesting must provide workers with training on their proper use, including how to set them up and how to dismount with a full load. Ladders used for orchard harvesting must be checked regularly for defects, must be maintained in good condition at all times, and must be properly stored. Ladders longer than 16 feet are prohibited.

VEHICLES AND FARM FIELD EQUIPMENT — Tractors and other motor vehicles used on farms and adjacent highways must have prescribed lamps, reflectors and safety emblems, and must be equipped with guards and other safety features described in the regulations. Only qualified drivers who have a current motor vehicle operator's license may drive farm vehicles.

ROLLOVER PROTECTIVE STRUCTURES FOR TRACTORS — Agricultural tractors that were manufactured after October 25, 1976, and that are not exempted from this requirement must be equipped with protective structures intended to prevent worker injuries in the event of a rollover. Each such tractor is also required to have a seat belt, and drivers are required to use it. Tractor operators must be trained in proper operating practices at the time of their initial assignment and at least once a year thereafter.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (FIELD SANITATION AND HEAT EXPOSURE)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts G and G-1

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers, workers and workplaces in the state, including requirements for sanitation facilities in the field and related measures to protect field workers from heat-related illness.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Without cost to the workers, agricultural employers must ensure that a sufficient quantity of suitably cool drinking water is readily accessible to workers at all times, and the workers must have an opportunity to drink up to one quart of water per hour. The water must meet state or federal public drinking water quality standards and be furnished in sanitary, closable containers. Open containers such as pails or barrels from which water must be poured or dipped are prohibited, as is the use of common drinking cups or dippers.

Employees must be cautioned against drinking water from irrigation ditches, creeks or rivers.

HANDWASHING FACILITIES — Without cost to the workers, agricultural employers must provide one handwashing facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be equipped with a tap, a basin and an adequate supply of potable running water, soap and single-use hand towels. The handwashing facilities must be located near the required toilet facilities, within 1/4 mile of the worksite or at the point of closest vehicular access to the field. The employer must also provide receptacles for sanitary disposal of handwashing waste.

TOILET FACILITIES — Without cost to the workers, agricultural employers must provide one toilet facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be adequately ventilated and appropriately screened, and have self-closing doors that are lockable from the inside. All toilet facilities must be inspected at the start of the workday to assure that they are functional, clean and sanitary; each unit must be supplied with toilet paper. The toilet facilities must be located near the required handwashing facilities, within 1/4 mile of the worksite or at the point of closest vehicular access to the field. Employers and supervisors must allow workers a reasonable time during the work period to use the facilities.

HEAT EXPOSURE — In addition to providing field workers with drinking water as outlined above, agricultural employers are required to address the potential for heat-related illness among workers in the field by including an outdoor heat exposure safety element in their written accident prevention program and associated worker training. Worker training must cover such topics as environmental and personal factors that can contribute to heat-related illness, the symptoms of heat-related illness, the role of clothing and water consumption in preventing heat-related illness, and the importance of reporting signs of illness to supervisors. Supervisors must receive similar training, and supervisors are required to relieve from duty any worker showing signs of heat-related illness, take measures to reduce the worker's body temperature, and monitor the worker to determine whether medical attention is necessary.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HOUSING

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (TEMPORARY WORKER HOUSING)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Part L

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to agricultural employers, workers and workplaces in the state, including regulations governing temporary worker housing.

SPECIFIC TERMS AND CONDITIONS: Washington's temporary worker housing standards, which apply to all farm operators and other agricultural establishments that provide temporary housing for their employees, are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) but include unique provisions of particular note, some of which are summarized here:

LICENSING — Unlike the OSHA standards, the regulations adopted by the state require that temporary worker housing be *licensed*, provided the facility is occupied by 10 or more workers, or consists of 5 or more dwelling units (see next entry).

MAXIMUM OCCUPANT CAPACITY — The regulations limit the capacity of housing facilities, based on (1) existing floor space in habitable rooms used for sleeping, and (2) the actual number of toilet, handwashing, bathing, food-handling and laundry facilities available.

TENTS — Tents are allowed to be used as housing for temporary workers, but only while employed for the harvest of cherries. Each tent must be constructed to sleep no more than 15 workers.

SAFETY DEVICES — There must be a functioning, properly installed carbon monoxide alarm in each dwelling unit with a sleeping area. Likewise, there must be a properly installed and working smoke alarm in each sleeping area and in each cooking area. Fire extinguishers are required in dwelling units where occupants sleep if the unit does not have a second means of emergency escape.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Temporary Worker Housing Program, Office of Environmental Health and Safety, Washington State Department of Health, Olympia, Washington 98504 (360-236-3330). This agency is responsible for inspection and licensing of temporary worker housing facilities in Washington.

TEMPORARY WORKER HOUSING LAW

STATUTORY CITATION: Wash. Rev. Code §§ 70.114A.010 - 70.114A.901

RELATED REGULATIONS: Wash. Admin. Code Chs. 246-358 and 246-359

GENERAL SUMMARY: Chapter 70.114A of the public health and safety statutes authorizes the state health department to develop regulations governing temporary worker housing in Washington, and to work with the state labor department to establish a streamlined administrative process for inspection and licensing of such facilities. The law applies to temporary worker housing — agricultural and otherwise — that consists of 5 or more dwelling units, or any combination of dwelling units that house 10 or more occupants.

SPECIFIC TERMS AND CONDITIONS: Using the rulemaking authority referred to above, the state health department has adopted detailed rules regulating temporary worker housing facilities, briefly outlined here.

LICENSING — In general, the owner or operator of a temporary worker housing facility must apply to the state health department for a license before the facility is occupied each year. Before a license is issued, the facility must be inspected or the operator must submit and receive approval of a self-survey.

Exception — Camps for workers employed in the harvest of cherries must be inspected before occupancy. A license to operate a cherry harvest camp is limited to one week before the start of the harvest through one week after the harvest concludes. Cherry harvest camps are the only form of housing in which tents may be used to house temporary workers.

MAXIMUM OCCUPANT CAPACITY — The regulations limit the capacity of housing facilities, based on (1) existing floor space in habitable rooms used for sleeping, and (2) the number of toilet, handwashing, bathing, food-handling and laundry facilities actually available.

HOUSING STANDARDS — Among many other licensing conditions that temporary worker housing must meet are these:

Site — The housing site must be adequately drained, at least 200 feet from pools of standing water, and large enough to prevent overcrowding of structures.

Water Supply — The water supply and distribution system must be constructed and maintained in accordance with state regulations. In general, there must be hot and cold running water in each central bathing, laundry, cooking or food-handling facility at all times, and all family units must be provided with hot and cold running water under pressure.

Sewage Disposal — All sewage and waste water must be drained into an approved public or on-site disposal system.

Electricity and Lighting — The dwelling units must have electric service, and rooms must be properly equipped with light fixtures and electrical outlets. Living areas and service rooms must be adequately lighted.

Building Construction — Dwelling units and common facilities must protect against the elements and comply with state and local building codes. There must be locking mechanisms on all exterior doors, bedroom doors, and toilet and shower doors (if provided). Buildings must be maintained in good repair and sanitary condition. Housing must comply with prescribed minimum requirements on floor space and ceiling height.

Safety Devices — There must be a functioning, properly installed carbon monoxide alarm in each dwelling unit with a sleeping area. Likewise, there must be a properly installed and working smoke alarm in each sleeping and cooking area. Fire extinguishers are required in dwelling units where occupants sleep if the unit does not have a second means of emergency escape.

Laundry Facilities — The housing operator must provide at least one laundry tray or tub, or one mechanical washing machine, for every 30 occupants. There must also be adequate facilities for drying clothes.

Toilet Facilities — There must be flush toilets (or chemical toilets, if approved by the health department) in numbers adequate for the maximum capacity of the housing; pit toilets or privies are not allowed. In general, shared facilities must have at least one toilet for every 15 occupants. Toilets must be located within 200 feet of the door of each sleeping room. Toilet rooms must be adequately ventilated and screened and maintained in clean and sanitary condition.

Handwashing and Bathing Facilities — The housing operator must provide handwashing and bathing facilities in numbers adequate for the maximum capacity of the housing. In general, shared facilities must have at least one wash basin for every 6 occupants and one showerhead for every 10.

Cooking and Food-Handling Facilities — There must be cooking, food storage and eating facilities in each individual unit, or common food handling facilities that meet prescribed specifications. Among other requirements, in each individual unit or common facility there must be an operable cook stove or hotplate, and mechanical refrigeration capable of maintaining a temperature of 40 degrees F. or below.

Sleeping Facilities — The operator must provide adequate numbers of beds, cots or bunks, furnished with clean mattresses in good condition. Beds must be located and spaced as prescribed in the regulations. For each occupant housed in a common sleeping facility, there must be a suitable enclosed storage space that is lockable and accessible to the occupant.

First Aid and Safety — The use, storage or mixing of flammable, volatile or toxic substances other than those intended for household use is prohibited in the housing area. First aid equipment must be provided by the housing operator and kept readily accessible to residents.

Refuse Disposal — The operator must follow local sanitation codes for removing and disposing of trash. Trash and garbage must be stored in fly-tight, rodent-proof, cleanable containers, or in single-use containers. There must be at least one trash container per dwelling unit, located within 100 feet of each unit. Containers must be emptied when full, but no less often than twice each week.

Pest Control — Appropriate measures must be taken to control rodents and insects.

Disease Prevention and Control — The housing operator is required to immediately report to the local health department (1) the name and address of any occupant known to have or suspected of having a communicable disease, and (2) any case of suspected food poisoning or other unusual health incident or situation.

PRIMARY ENFORCEMENT AGENCY — Temporary Worker Housing Program, Office of Environmental Health and Safety, Washington State Department of Health, Olympia, Washington 98504 (360-236-3330). This agency is responsible for inspection and licensing of temporary worker housing facilities in Washington. On its own or in response to a report of an alleged violation, the Department may inspect any facility subject to these provisions and take action to have the facility's operator correct a confirmed violation. Failure to correct a violation may result in a civil fine or modification, suspension or revocation of the facility's license. Civil fines are also prescribed for failure or refusal to obtain a temporary worker housing license prior to occupancy.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). Temporary worker housing facilities are also subject to inspection by this agency, which enforces very similar health and safety standards.

INSURANCE AND COMPENSATION

■ EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Wash. Rev. Code §§ 50.01.005 - 50.98.110

GENERAL SUMMARY: Among other legislative purposes, the Employment Security Act establishes a state unemployment compensation fund for the payment of weekly cash benefits to workers who are temporarily unemployed, have recently worked in insured employment, and meet other eligibility criteria. The fund is supported by compulsory contributions collected from most of the state's employers in rough proportion to their payroll expenditures. With some exceptions, employers with one or more employees are required to pay contributions.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator, crew leader or other agricultural establishment that (1) paid \$20,000 or more in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay state unemployment insurance contributions. The amount of the UI tax is determined by multiplying the employer's taxable wage payments during the calendar year by the employer's tax rate, which is assigned annually by the state administering agency on the basis of the employer's UI claims experience and other factors. The amount of each worker's wages subject to the tax in any year is generally limited to 80 percent of the statewide average annual wage for UI-covered employment during the second preceding calendar year.

ELIGIBILITY FOR BENEFITS — An unemployed individual is eligible to receive benefits only if the state agency finds that the worker (1) has registered for work with the state employment office and continued to report periodically thereafter, (2) has filed an application for an initial determination of eligibility and made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, (5) is actively seeking work each week and participating in re-employment services if required, and (6) has earned wages for no less than 680 hours of UI-covered employment during either (a) the first four of the last five completed calendar quarters immediately preceding the application for initial determination of eligibility, or (b) the *last* four quarters of the five-quarter period.

Students, farm interns, members of the employer's own family, and workers not legally authorized to work in the U.S. are not eligible for unemployment benefits.

AMOUNT OF BENEFITS — An individual's weekly benefit amount is defined as 3.85 percent of the worker's quarterly wages from UI-covered employment, averaged over the two quarters of the worker's four-quarter base year in which such wages were highest. In no case, however, may the weekly benefit amount be (1) more than 63 percent of the statewide average weekly wage for covered employment in the preceding calendar year, or (2) less than 15 percent of last year's average weekly wage. For any week of unemployment, the claimant is generally entitled to a UI payment equal to the weekly benefit amount, minus 75 percent of that portion of the week's part-time earnings (if any) in excess of \$5.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — Unless it is established to the satisfaction of the Department that services were performed in the employ of the crew leader, farmworkers performing agricultural services for a farm operator through or under the supervision of a crew leader are deemed employees of the farm operator, and if the farm operator meets the payroll test described above, the farm operator is liable for payment of UI contributions on the workers' behalf. Furthermore, in the event a crew leader is judged to be the employer but fails to pay required contributions, the farm operator is liable for the contributions on the workers' wages, even if the farm operator does not meet the coverage test.

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Program, Washington State Employment Security Department, Olympia, Washington 98507 (360-902-9500). Administration of the state unemployment insurance program, from the collection of UI contributions from subject employers to the payment of benefits to eligible workers, is handled exclusively by the Department. An application for benefits may be filed by toll-free telephone, at 800-318-6022, or online, at https://esd.wa.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

INDUSTRIAL INSURANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 51.04.010 - 51.98.070

GENERAL SUMMARY: Each worker who is injured in the course of employment or who contracts an occupational disease is entitled to receive medical treatment, wage replacement benefits if unable to work, and other compensation. If the injury or disease leads to the worker's death, compensation is payable to the worker's surviving dependents. A worker who is injured on the job has the right to necessary medical, surgical and hospital services until reaching maximum medical improvement. These benefits are payable without regard to fault and in lieu of the worker's right to legal action against the employer in connection with the injury or disease.

To finance the state industrial insurance program, most employers are required to (1) pay quarterly premiums to the state workers' compensation fund, or (2) qualify as a self-insurer. One-half the cost of the medical portion of the premium can be deducted and withheld from the employees' wages for those covered by the state fund. Cost-of-living adjustments for wage replacement and pension benefits are paid from the state supplemental pension fund, and these premiums are paid equally by employers and workers.

PROVISIONS APPLICABLE TO AGRICULTURE: The industrial insurance law applies to all agricultural employers with one or more employees, and protects all agricultural workers, to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Insurance Services Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5800). The Department is responsible for determining the liability of employers for industrial insurance premiums, collecting premiums from subject employers, determining the eligibility of injured workers or their dependents for compensation benefits, paying compensation to eligible workers and beneficiaries, and overseeing the medical, surgical and hospital treatment of covered employees. It is the worker's duty to promptly report to the employer any job-related accident which affects the worker, and the employer must in turn notify the Department whenever an accident results in an employee's injury, hospitalization, disability or death. Medical providers are required to assist the worker with filing a workers' compensation claim.

Any worker injured on the job, or the dependent of any such worker, may file a claim or application for compensation with the Department (or with the employer, if the employer is self-insured). In general, no claim is enforceable unless filed within one year after occurrence of the injury or death on which the claim is based.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

→ FAMILY LEAVE INSURANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 49.86.005 - 49.86.903

GENERAL SUMMARY: Chapter 49.86 of the state statutes authorizes the payment of up to 5 weeks of cash benefits to workers who (1) are unable to perform their regular or customary work because they are caring for a newborn or newly adopted child, and (2) have been employed for at least 680 hours during the first four of the last five complete calendar quarters preceding the claim for benefits. In general, the amount of benefits is set by law at \$250 per week for an individual who was regularly working 35 hours or more per week when the period of family leave began. The benefit amount is prorated if the claimant is regularly working less than 35 hours per week, and is reduced for weeks when there is partial work during the leave period.

The family leave insurance program applies to employers and employment to the same extent as those terms are defined in the state Employment Security Act, summarized in the previous entry.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators, crew leaders and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are covered by the family leave insurance program. A farmworker who is employed by such an establishment, and who meets the work-hours requirement noted in the summary above, may be eligible for paid family leave for care of a newborn or newly adopted child.

SPECIAL NOTES OR ADVISORIES

LAW UNIMPLEMENTED — Although enacted in 2007 and set to take effect on July 1, 2008, the family leave insurance law has not been implemented, pending legislative action to appropriate funding and enact an implementation date.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — No state agency has been designated to administer the family leave insurance program.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY ACT

STATUTORY CITATION: Wash. Rev. Code §§ 19.31.010 - 19.31.910

GENERAL SUMMARY: The Employment Agency Act requires businesses which charge a fee to procure employment for job-seekers, or which give out any sort of employment information for profit, to obtain a license from the state to do so. Licensing is conditioned, in part, on posting a \$2,000 surety bond or equivalent security to cover any legal damages stemming from violation of the Act by the licensee. Employment agencies are required to keep a prescribed record of all services rendered to employers and job applicants, to provide applicants with a written contract outlining the cost and other terms of the job placement services they receive, and to observe other duties and rules of conduct.

PROVISIONS APPLICABLE TO AGRICULTURE: The Employment Agency Act does not apply to farm labor contractors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Agencies Section, Washington State Department of Licensing, Olympia, Washington 98507.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FARM LABOR CONTRACTOR LAW

STATUTORY CITATION: Wash. Rev. Code §§ 19.30.010 - 19.30.902

RELATED REGULATIONS: Wash. Admin. Code Ch. 296.310

GENERAL SUMMARY: Chapter 19.30 of the Washington statutes regulates the business activities of farm labor contractors, defined as any individual, firm, association or other entity that, for a fee, recruits, solicits, employs, supplies, transports or hires agricultural workers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, no one may act as a farm labor contractor in Washington until a license authorizing such activity has been issued to the applicant by the state. The licensee must have the license in possession at all times while engaged in contracting services.

BONDING AND INSURANCE — Among other prerequisites, the state licensing agency may not issue a license unless the applicant (1) posts a surety bond or equivalent security to ensure compliance with the farm labor contractor law, and (2) obtains and maintains a liability insurance policy covering potential damage to persons and property arising from the contractor's business activities and ownership or operation of any vehicles used to transport farmworkers.

DISCLOSURES TO WORKERS — At the time of hiring, recruiting, soliciting or supplying any worker (whichever occurs first), a farm labor contractor is obligated to furnish the worker with a written statement containing all of the following information:

- (1) The rate of compensation to be paid and the method for computing earnings.
- (2) The terms and conditions of any bonus to be paid.
- (3) The terms and conditions of any loan made to the worker.
- (4) The conditions and costs of any transportation, housing, board, health or daycare services, or other employee benefits to be provided by the contractor.

- (5) The anticipated duration of employment, the approximate start and end dates, and the crops and crop operations involved.
- (6) The terms and conditions under which the worker will be furnished clothing or equipment.
- (7) The location or locations of the job.
- (8) The name and address of the owner of all operations where the worker will be working.
- (9) The existence of any labor dispute at the worksite.
- (10) The name and address of the farm labor contractor.
- (11) The existence of any arrangement with any store or other establishment at the place of employment under which the contractor is to receive a fee or other benefit from any sales by such establishment to the workers.
- (12) The name and address of the surety on the contractor's bond, and a statement explaining the worker's right to claim against the bond.

This disclosure must be in English and in any other language understood by the worker if the worker is not fluent or literate in English.

PAY STATEMENTS — Each time a worker is paid by or through a farm labor contractor, the contractor must provide the worker with a written statement itemizing the worker's total earnings, the amount and purpose of each deduction from pay, the number of hours worked, the rate of pay, and the number of units of production if work was done on a piece-rate basis.

RECORDKEEPING — With respect to each worker recruited, solicited, employed, supplied or hired, every farm labor contractor is required to keep a record for each pay period showing the basis on which wages are paid, the number of piecework units produced (if applicable), the number of hours worked, the total earnings, the specific sums withheld from wages and the purpose of each such deduction, and the amount of net pay. A copy of the record must be given to each farm operator or other user of the worker's labor, who in turn is required to preserve the record for no less than 3 years after the end of the period of employment.

PROHIBITED ACTS — It is illegal for anyone acting as a farm labor contractor to engage in any of the following practices:

- To make a misrepresentation or false statement in an application for a license.
- (2) To give false or misleading information concerning the availability, terms or conditions of any employment.
- (3) To send or transport a worker to any job site where the contractor knows a strike or lockout is in progress.
- (4) To commit any act which constitutes a crime of moral turpitude under state law.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

LIABILITY FOR USE OF AN UNLICENSED CONTRACTOR — A farm operator or other establishment that knowingly uses the services of an unlicensed farm labor contractor is personally, jointly and severally liable with the person acting as a contractor for any damages arising from the contractor's operation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department is responsible for licensing farm labor contractors in the state, and for monitoring their compliance with the farm labor contractor law. Not only may the Department revoke, suspend or refuse to renew the license of a contractor who engages in prohibited activities, or fails or refuses to observe the duties imposed on contractors under the law, but the Department is authorized to assess a civil money penalty of up to \$1,000 for each such infraction. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — After filing notice of a claim with the Department, anyone aggrieved by a violation of these provisions may bring suit against the contractor to recover actual losses, plus punitive damages and other relief, provided the suit is filed within 3 years after the violation occurred. A worker with a claim against a contractor may also bring suit against the contractor's surety bond, within 3 years after the date of expiration or cancellation of the bond, or the date of expiration or cancellation of the contractor's license, whichever is sooner.

SEASONAL LABOR LAW

STATUTORY CITATION: Wash. Rev. Code §§ 49.40.010 - 49.40.080

GENERAL SUMMARY: Chapter 49.40 of the state statutes provides certain protections for workers recruited in Washington to perform out-of-state seasonal labor, defined as employment for more than one month where wages are not paid at regular intervals, but rather upon termination of the job and return to Washington. Such seasonal employment arrangements implicitly include seasonal agricultural work.

SPECIFIC TERMS AND CONDITIONS

WRITTEN CONTRACTS — Every contract for seasonal labor, as defined in brief above, must be in writing and must be signed by the employer and the employee.

ADVANCES — A contract for seasonal labor may provide for payment of cash advances or the furnishing of supplies to the worker before wages are earned, and for the payment of money or furnishing of supplies during the season.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). At the request of a worker or employer, the Department is authorized to investigate any dispute concerning wages earned in seasonal labor. The Department may allow or reject deductions made from the worker's earnings for money advanced or supplies furnished before or during the season, or for money paid to third parties upon the worker's written authorization.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR RELATIONS AND COLLECTIVE BARGAINING

MISCELLANEOUS LABOR LAWS (STRIKEBREAKING)

STATUTORY CITATION: Wash. Rev. Code § 49.44.100

GENERAL SUMMARY: It is generally illegal for any person, firm or corporation not directly involved in a strike or lockout to recruit or offer employment to individuals from outside the state, and to bring them into Washington, when the purpose of such activities is to replace workers who are on strike or subject to a lockout, or to have the individuals act as pickets where a labor dispute is in progress.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies irrespective of the nature of the employment involved in the dispute or the occupational classification of the workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department has general authority to investigate reported and suspected non-compliance with the state labor laws and to refer cases to local and state prosecuting attorneys for legal action. Violation of the strikebreaking provision is deemed a gross misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

WASHINGTON PESTICIDE APPLICATION ACT

STATUTORY CITATION: Wash. Rev. Code §§ 17.21.010 – 17.21.920

RELATED REGULATIONS: Wash, Admin, Code Chs. 16-202 - 16-232

GENERAL SUMMARY: The Washington Pesticide Application Act regulates the use of pesticides in the state, in part by requiring the licensing of pesticide applicators and giving the state agriculture department broad authority to adopt specific rules governing the conditions under which pesticides may be applied.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Among other categories of users, persons who (1) engage in the business of applying pesticides to the land of another, (2) apply pesticides manually or by licensed apparatus while in the employ of a pesticide application business, or (3) use or supervise the use of restricted-use pesticides in the production of agricultural commodities, must be licensed by the state to do so. In each case, applicants for a license must be certified as to their ability to apply pesticides in the classifications they have applied for and their knowledge of the nature and effects of pesticides.

Exception — The commercial pesticide applicator licensing requirements do not apply to any farmer who owns ground application equipment and applies pesticides only on his or her own crops, or on the crops of other farmers on an occasional basis not amounting to a principal or regular occupation.

BONDING OR INSURANCE — The state may not issue a commercial pesticide applicator's license until the applicant has furnished evidence of a surety bond or liability insurance policy protecting persons who may suffer legal damages as a result of the applicant's operations. The amount of the bond or insurance must be at least \$50,000 each for property damage and public liability coverage, or \$100,000 combined coverage.

RECORDKEEPING — In general, licensed pesticide applicators must make, and preserve for at least 7 years, a record of each pesticide application they perform, including such information as the name of the person for whom the pesticide was applied, the location of the land where the application occurred, the year, month, day and time of application, the trade or common name of the product, and the direction and estimated velocity of the wind at the time of application.

Even if not required to be licensed, anyone who applies pesticides to more than one acre of agricultural land in a calendar year must also keep records.

UNLAWFUL ACTS — Among other violations enumerated in the statute, it is illegal for anyone to (1) handle or apply pesticides in a faulty, careless or negligent manner, (2) fail or refuse to keep required pesticide-related records, (3) apply pesticides without having obtained the appropriate class of license for that activity, or (4) fail to maintain the liability insurance required for the class of pesticide license held or required to be held.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S.—Pesticides & Agricultural Chemicals—General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Pesticide Management Division, Washington State Department of Agriculture, Olympia, Washington 98504 (360-902-2036; toll-free 877-301-4555). The Department has exclusive control over the licensing and certification of pesticide applicators in the state and is responsible for assuring their compliance with the Pesticide Application Act. Representatives of the Department may enter public or private premises at reasonable times to inspect pesticide application equipment, examine lands exposed to pesticides, inspect pesticide storage and disposal areas, investigate complaints of injury to humans or land, and sample pesticides being applied or to be applied. In addition to the authority to deny, suspend or revoke licensing and certification, the Department may assess a civil penalty of up to \$7,500 for failure to comply with the Act or the associated regulations. Violators are also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WASHINGTON PESTICIDE APPLICATION ACT (WORKER PROTECTION)

STATUTORY CITATION: Wash. Rev. Code § 17.21.440

RELATED REGULATIONS: Wash. Admin. Code Ch. 16-233

GENERAL SUMMARY: The Washington Pesticide Application Act gives the state agriculture director broad authority to adopt specific rules governing the conditions under which pesticides may be applied, and explicitly mandates adoption of worker protections that are at least as effective as the requirements established in the U.S. Environmental Protection Agency's worker protection standard (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

SPECIFIC TERMS AND CONDITIONS: Using the mandates in the statute, the state agriculture director has adopted standards for the protection of field workers and pesticide handlers. The rules are virtually identical to the federal standard referenced above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, Pesticide Management Division, Washington State Department of Agriculture, Olympia, Washington 98504 (360-902-2036); toll-free 877-301-4555).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (PESTICIDE SAFETY FOR WORKERS)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts H and I

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to agricultural employers, workers and workplaces in the state. These rules include provisions relevant to pesticide safety, including the use of personal protective equipment and enforcement of pesticide-related worker protections.

SPECIFIC TERMS AND CONDITIONS

PERSONAL PROTECTIVE EQUIPMENT — Agricultural employers must ensure that field workers and other employees are protected from injury that might occur through absorption, inhalation or physical contact with pesticides and other toxic or hazardous materials. To help prevent that, employers must provide and maintain certain appropriate personal equipment such as protective clothing, respirators, shields, safety glasses and other devices that create a barrier between the source of the hazard and the worker's eyes, face, head and extremities. Employers are required to instruct the workers in the proper use of personal protective equipment.

Exception — Employers are not required to provide workers with long-sleeve shirts, long-legged pants, socks and other normal work clothing that may provide some protection against workplace hazards.

WORKER PROTECTION STANDARDS — Like the state agriculture department, the state labor and industries department has adopted and shares enforcement responsibility for state standards for the protection of field workers and pesticide handlers. The rules are virtually identical to the federal standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKER AND COMMUNITY RIGHT TO KNOW ACT

STATUTORY CITATION: Wash. Rev. Code §§ 49.70.010 - 49.70.900

GENERAL SUMMARY: The Worker and Community Right to Know Act grants virtually all employees in Washington the right to request from their employers certain information regarding hazardous substances in the workplace, and requires employers to provide workers engaged in agricultural production with information and training on the hazardous chemicals in their workplace.

SPECIFIC TERMS AND CONDITIONS

EMPLOYEE'S RIGHTS — An employee or employee representative may make a written request to the employer for a copy of the employer's workplace survey of hazardous substances, or a copy of a material safety data sheet on each such substance to which the worker may be exposed in the work area. The employer must provide the requested information within 3 working days of the request, or the employee may refuse to work with the substance or substances in question without loss of pay or any other employment privilege until the request is honored.

INFORMATION AND TRAINING ON AGRICULTURAL CHEMICALS — Farm operators and other agricultural employers are required to maintain the material safety data sheets received with incoming shipments of hazardous chemicals, and assure that the information is accessible to their agricultural employees on request. Labels on incoming containers of hazardous agricultural chemicals may not be removed or defaced. In general, all employees engaged in agricultural production of crops or livestock must be provided with training on the hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced to the workplace, instruction must address the hazards to which the employees will be exposed.

RECORDKEEPING — An employer who applies pesticides to an agricultural crop, or who contracts to have pesticides applied to a crop, must keep a record of each such application. Among other information, the record must include (1) the date and time of the pesticide application, (2) the location of the land where the pesticide was applied, (3) the name and EPA registration number of the pesticide product used, (4) the crop or site to which the product was applied, (5) the amount and concentration used, (6) the name and address of the person or persons performing the application, and (7) the wind speed and direction at the time the application took place.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the Department may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). The enforcement and administrative procedures spelled out in the Washington Industrial Safety and Health Act apply explicitly to the Right to Know Act. Any worker who is denied access to information or training to which he or she is entitled under the Right to Know Act may file a complaint with the Department. If investigation of the complaint reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may bring suit in superior court against an employer who fails or refuses to comply with the Right to Know Act. A judgment in the worker's favor may include an award of the costs of litigation, including the reasonable expenses for legal counsel and expert witnesses.

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-901

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers in the state, including rules requiring them to identify the hazardous chemicals in the workplace and to train their employees about those materials.

SPECIFIC TERMS AND CONDITIONS

HAZARDOUS CHEMICAL LIST — Farm operators and other agricultural employers must compile a list of hazardous chemicals known to be present in the workplace and to which workers there may be exposed under normal conditions of use or in an emergency situation. For each item on the list, the employer must obtain from the manufacturer a safety data sheet that includes prescribed information about its hazards and related protective measures.

Both the hazardous chemical list and safety data sheets must be kept up to date and made accessible to employees.

INFORMATION AND TRAINING — At the time of their initial job assignment and any time a new chemical hazard is introduced into their work area, the employer must:

- (1) Inform the workers of (a) the requirements of these rules, (b) any operations in their work area where hazardous chemicals may be present, and (c) the location of the chemical list and safety data sheets described above.
- (2) Provide the workers with effective training about hazardous chemicals in their work area, to include (a) methods for detecting the presence or release of hazardous chemicals, (b) the likely symptoms of over-exposure, and (c) the steps workers can take to protect themselves from the associated hazards.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Part U-1

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to agricultural employers in the state, including rules for the storage and handling of anhydrous ammonia, a hazardous and commonly used agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS

Washington's ammonia safety regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and may be enforced against any agricultural operation in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

STATUTORY CITATION: Wash. Rev. Code §§ 49.46.005 - 49.46.920

RELATED REGULATIONS: Wash. Admin. Code 296-131-117

GENERAL SUMMARY: The Washington Minimum Wage Act requires most employers in the state to pay each of their employees who are at least 18 years of age wages at a rate no less than the state minimum wage. A statewide ballot initiative approved in November 2016 increases the minimum wage in six steps between 2017 and 2022:

Effective January 1, 2017: \$11.00 per hour Effective January 1, 2018: \$11.50 per hour Effective January 1, 2019: \$12.00 per hour Effective January 1, 2020: \$13.50 per hour Effective January 1, 2021: \$13.86 per hour Effective January 1, 2022: \$14.23 per hour

On September 30 each year starting in 2022, the state labor department will adjust the minimum wage rate to account for inflation, as measured by the change in the consumer price index for urban wage earners and clerical workers. The adjusted rate takes effect the following January 1.

PROVISIONS APPLICABLE TO AGRICULTURE

ADULTS — With some exceptions, agricultural workers 18 years of age and older are entitled to the state minimum wage, in accordance with the schedule outlined above.

Exception — The state minimum wage does not apply to anyone employed as a hand harvest worker and who (1) is paid on a piecework basis in an operation customarily recognized as a piecework operation in the local region, (2) commutes to the farm daily from his or her permanent residence, and (3) was employed in agriculture less than 13 weeks during the preceding calendar year.

MINORS — Agricultural workers under the age of 18 are subject to wage rates administratively set by the state labor department:

Workers 16 and 17 Years of Age — Sixteen- and 17-year-old farmworkers are entitled to the same minimum wage applicable to covered adult workers.

Workers Under Age 16 — Farmworkers below the age of 16 must generally receive no less than 85 percent of the adult minimum rate.

RECORDKEEPING — To facilitate enforcement, every employer subject to any provision of the Act must make and preserve a record of each employee's name, address, occupation, rate of pay, earnings for each pay period, and hours worked each day and each workweek.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or to discriminate in any other way against a worker who has made a complaint to the employer or to the enforcement agency regarding wages or other rights under the Minimum Wage Act, or has testified in a related proceeding.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). This agency is authorized to investigate any complaint alleging non-payment of the state minimum wage, and to take action to collect unpaid wages on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WASHINGTON MINIMUM WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Wash. Rev. Code § 49.46.130

GENERAL SUMMARY: With some exceptions, employers in the state of Washington may not employ anyone for a workweek longer than 40 hours unless the worker receives compensation at a rate not less than $1^{1}/2$ times the worker's regular pay rate for each hour of overtime.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the Minimum Wage Act **do not apply** to individuals employed in the production, preparation for market, commercial canning, commercial freezing, or other commercial processing of any agricultural or horticultural commodity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: Wash. Rev. Code §§ 49.48.010 - 49.48.900

GENERAL SUMMARY: Chapter 49.48 of the Washington statutes, which applies to all private employment in the state, regulates the payment of final wages, limits deductions from earnings, and prescribes procedures for the collection of unpaid wages.

SPECIFIC TERMS AND CONDITIONS

FINAL COMPENSATION — In general, when an employee is discharged or voluntarily withdraws from employment, the worker's final wages must be paid at the end of the established pay period.

DEDUCTIONS — It is unlawful for an employer to withhold or divert any portion of a worker's wages unless the deduction is (1) required by state or federal law, (2) specifically agreed upon by the worker and the employer, or (3) required for medical, surgical or hospital care and clearly documented as such in the employer's payroll records.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). A worker who has not received all or any part of his or her earnings may file a wage claim with the Department, which is authorized to take legal action to collect it when the claim appears valid and the worker is unable to afford legal counsel to prosecute the claim in court. In investigating complaints, representatives of the Department may examine payroll records, hold hearings, subpoena witnesses, and take related enforcement action. Failure to pay wages or to comply with the wage payment provisions outlined above is a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

West Virginia

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West Virginia

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CHILD LABOR

CHILD LABOR LAW

STATUTORY CITATION: W. Va. Code §§ 21-6-1 - 21-6-11

RELATED REGULATIONS: W. Va. Code R. §§ 42.9.1 – 42.9.12

GENERAL SUMMARY: With certain exceptions, West Virginia's child labor law forbids the employment of children under 14 years of age, prohibits the employment of anyone under 18 years of age in certain occupations statutorily or administratively deemed dangerous or injurious to such individuals, bars the employment of minors under the age of 16 in most gainful occupations unless the employer has on file a work permit for each such child employed, and limits the working hours of children under 16 in most trades and industries.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — There is **no minimum age limit** on employment of children in agriculture, as long as the job is not on the list of occupations declared hazardous by the U.S. Department of Labor.

PROHIBITED OCCUPATIONS — Under rules adopted by the state labor commissioner, the occupations declared by the U.S. Department of Labor to be hazardous to minors also apply to employment in West Virginia. Among other agriculturally-related activities prohibited for workers under 16 years of age are these: (1) operation of a tractor of over 20 PTO horsepower, (2) operation or assisting in the operation of power-driven harvesting equipment, (3) working from a ladder at a height of over 20 feet, (4) driving a motor vehicle transporting passengers, (5) working inside a fruit or grain storage facility or silo, and (6) handling or applying pesticides, anhydrous ammonia and other agricultural chemicals.

WORK PERMITS — The requirements for obtaining a work permit allowing employment of youth under the age of 16 *do not apply* to agricultural employment.

WORKING HOURS — The restrictions on the maximum hours and time of day during which children under 16 may be lawfully employed *do not apply* to agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890). This agency is responsible for enforcing the state child labor law, and representatives of the Division of Labor have authority to enter and inspect any workplace and records pertinent to compliance. An employer who violates any of these provisions, and any parent or guardian who allows a child to work in violation of these provisions, is guilty of a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — School truancy officers and other school officials may assist the Division of Labor in enforcing the child labor provisions.

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: W. Va. Code §§ 18-8-1 - 18-8-12

GENERAL SUMMARY: Unless exempted, every child in West Virginia who has reached the age of 6 by September 1 in any school year, but who is not yet 17, is required to attend public school or receive equivalent instruction in an approved private or parochial school or at home. Anyone who, after due notice, fails to assure the attendance of a school-age child in his or her legal or actual custody is guilty of a misdemeanor.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no agriculturally related exceptions to the compulsory school attendance law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by county attendance directors employed for that purpose by the county boards of education. Attendance directors are obligated to investigate the circumstances of each reported instance of non-attendance by a child of compulsory school age, and attempt to resolve the causes of non-attendance. For each day in which a child is unlawfully out of school, the responsible party is subject to a fine of from \$50 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

WEST VIRGINIA HUMAN RIGHTS ACT

STATUTORY CITATION: W. Va. Code §§ 5-11-1 - 5-11-20

GENERAL SUMMARY: The West Virginia Human Rights Act declares, in part, that equal opportunity in employment is a human and civil right of all persons, without regard to race, religion, color, national origin, ancestry, sex, age, blindness or disability. The Act defines certain unlawful discriminatory employment practices and establishes a state-administered framework for investigating and resolving related complaints.

With few exceptions, the law applies to all establishments — agricultural and non-agricultural alike — employing 12 or more workers in West Virginia for 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL PRACTICES — Employers subject to the law are generally prohibited from engaging in any of the following acts, among others:

- (1) Discriminating against an individual with respect to compensation, hire, tenure, or the terms or conditions of employment, when the individual is able and competent to perform the required services and when such discrimination is on grounds of race, religion, color, national origin, ancestry, sex, age (40 or over), blindness, or disability.
- (2) Eliciting pre-employment information, using any form of job application, or circulating any employment notice, concerning or indicating any preference or discrimination with respect to race, religion, color, national origin, ancestry, sex or age.

Employment agencies and labor organizations are subject to comparable prohibitions against discrimination.

Exceptions — Bona fide pension, retirement, insurance or welfare benefit plans are not regarded as discriminatory as long as they are not used as a subterfuge to evade the Act's anti-discrimination intent. Likewise, hiring or any other employment decision that recognizes a person's race, religion, color, national origin, ancestry, sex, age, blindness, or disability does not necessarily violate the law, provided such a decision is based on a bona fide occupational qualification.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory practice may file a complaint with the state enforcement agency at any time within 365 days after the alleged act occurred. If the state agency's investigation finds probable cause for believing that the employer or other respondent named in the complaint has violated the Act, the staff must attempt to eliminate the unlawful practice informally. Failure to reach an informal compliance agreement will normally result in a formal hearing to allow the respondent to answer the charges, and if the evidence presented in the hearing sustains the allegations of the complaint, the agency will issue an order requiring the respondent to cease the unlawful practice and take affirmative action to compensate the complainant. Affirmative action may include hiring, reinstatement or promotion, with or without back pay, or other appropriate relief.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546). It is the Commission's responsibility to receive, investigate and attempt to resolve complaints of employment discrimination under the Human Rights Act. For that purpose, the Commission is authorized to hold public and private hearings, subpoena witnesses and documents, take sworn testimony, and pursue related investigatory action. In addition to civil liability to the worker or workers affected by an act of discrimination, an employer who fails to comply with a lawful final order of the Commission is subject to a criminal fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Commission fails to take certain action on a complaint within specified timeframes, or if a complaint is not resolved to the complainant's satisfaction, the complainant may request a right-to-sue letter from the Commission, permitting private legal action against the respondent within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later. As an alternative to filing a complaint with the Commission, a person who has been subjected to unlawful employment discrimination may take legal action against the employer or other party involved immediately, using a private attorney or public legal service provider.

PREGNANT WORKERS' FAIRNESS ACT

STATUTORY CITATION: W. Va. Code §§ 5-11B-1 - 5-11B-7

GENERAL SUMMARY: The Pregnant Workers' Fairness Act declares employment discrimination against workers who are affected by pregnancy, childbirth or related medical conditions unlawful, and requires employers to make reasonable accommodations for such workers. Furthermore, an employer may not require a job applicant or employee affected by pregnancy, childbirth or a related medical condition to accept an accommodation that the applicant or employee chooses not to accept, and may not require an employee to take leave if another reasonable accommodation can be provided.

PROVISIONS APPLICABLE TO AGRICULTURE: With few exceptions, the law applies to all establishments — agricultural and non-agricultural alike — employing 12 or more workers in West Virginia for 20 or more calendar weeks in the current or preceding calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546). Complaints, investigations and administrative adjudication under the Pregnant Workers' Fairness Act are handled by the Commission in the same manner as prescribed under the West Virginia Human Rights Act (see previous entry).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Commission fails to take certain action on a complaint within specified timeframes, or if a complaint is not resolved to the complainant's satisfaction, the complainant may request a right-to-sue letter from the Commission, permitting private legal action against the respondent within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later. As an alternative to filing a complaint with the Commission, a person who has been subjected to unlawful employment discrimination may take legal action against the employer or other party involved immediately, using a private attorney or public legal service provider.

WAGE PAYMENT AND COLLECTION LAW (COMPULSORY PURCHASES)

STATUTORY CITATION: W. Va. Code § 21-5-5

GENERAL SUMMARY: Article 5 of the West Virginia labor laws regulates the payment of agricultural and non-agricultural wages in the state, and includes a provision outlawing compulsory purchases as a form of payment.

SPECIFIC TERMS AND CONDITIONS: It is a misdemeanor for an employer to compel an employee to purchase goods or supplies, from any source, in payment of wages. Furthermore, if a worker is coerced into such a purchase at a price higher than the reasonable or current market value, the employer is liable to the employee in an amount equal to double the difference between the price paid and fair value.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The prohibition against forced trade in lieu of cash wages is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Utilizing a private attorney or public legal service provider, a worker who has been victimized by a violation of this provision may recover unpaid wages and the excess cost of the goods involved, if any, by bringing suit against the offending employer. The court is authorized to award the worker reasonable attorney's fees if the worker prevails in any such action.

HEALTH AND SAFETY

○ EMPLOYEE SAFETY AND WELFARE LAWS (EMPLOYER'S GENERAL DUTY)

STATUTORY CITATION: W. Va. Code § 21-3-1

GENERAL SUMMARY: A provision in Article 3 of the state labor statutes requires employers in West Virginia to (1) furnish employment which is reasonably safe for the workers, and (2) provide and use safety devices, methods and processes reasonably adequate to make the workplace safe and to protect the life, health, safety and welfare of the employees. To effectuate these general mandates, the state labor commissioner is authorized to administratively prescribe reasonable means of protecting the workers in any industry, implicitly including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state labor commissioner has adopted **no standards** explicitly applicable or closely related to farmworkers or agricultural employment.

SPECIAL NOTES OR ADVISORIES

PREEMPTION BY FEDERAL LAW — It is the position of the state labor department that this provision is preempted by the U.S. Occupational Safety and Health Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

EMPLOYEE SAFETY AND WELFARE LAWS (WORKPLACE SANITATION)

STATUTORY CITATION: W. Va. Code §§ 21-3-12 - 21-3-13

GENERAL SUMMARY: Every factory, mercantile establishment, mill or workshop in West Virginia must be furnished with toilet facilities, sufficient in number and maintained in a clean and sanitary condition. Separate, plainly marked facilities must be provided for each sex. Where necessary, there must also be adequate washing facilities in all such establishments.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to provide sanitation arrangements does not apply to agricultural workplaces or any other non-fixed or outdoor place of employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: W. Va. Code §§ 21A-1-1 - 21A-11-1

GENERAL SUMMARY: The Unemployment Compensation Law seeks to provide a measure of security to families of unemployed workers, by authorizing the collection of unemployment insurance contributions from most employers in the state, to finance the payment of weekly benefits to persons who are temporarily out of work, have recent earnings from insured employment, and meet other eligibility requirements. With some exceptions, employers are required to pay unemployment contributions if they (1) paid \$1,500 of more in wages in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural employing unit that (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is required to pay unemployment insurance contributions to the state. A subject employer is generally liable for contributions on the first \$12,000 in wages paid to each employee during the calendar year, at a tax rate prescribed annually by the state administering agency in accordance with the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed person is eligible to receive unemployment benefits only if the state agency finds that the worker (1) has registered for work with the state employment service, (2) has made a claim for benefits, (3) is able to work, available for work, and conscientiously seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned at least \$2,200 in UI-covered wages, with earnings in more than one such quarter.

AMOUNT OF BENEFITS — The weekly benefit rate for an eligible claimant currently varies from \$24 to \$424 per week, depending on the worker's total earnings in the four-quarter base period mentioned above and subject to prescribed rules governing maximum weekly benefits. An eligible individual who is partially unemployed in any week is entitled to a UI payment equal to the worker's weekly benefit rate, minus that part of the week's part-time earnings which exceeds \$60.

SEASONAL WORKER PROVISIONS — A person who has worked less than 100 days during the base period in an industry recognized as seasonal (such as agricultural production, food processing, or canning) is not eligible for UI benefits unless the worker has base-period earnings from non-seasonal UI-covered employment amounting to at least \$100.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Compensation Division, WorkForce West Virginia, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-2624; toll-free 877-967-5498). This agency is responsible for the collection of unemployment insurance contributions from subject employers, the payment of UI benefits to eligible workers, and the adjudication of employer and worker appeals. Unemployment compensation claims may be filed at any local WorkForce West Virginia office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ WORKERS' COMPENSATION LAW

STATUTORY CITATION: W. Va. Code §§ 23-1-1 - 23-6-3

RELATED REGULATIONS: W. Va. Code R. § 85-8

GENERAL SUMMARY: With some exceptions, every employer in West Virginia is required to obtain workers' compensation coverage for the protection of its employees. A West Virginia workers' compensation insurance policy must provide for the payment of medical costs, disability benefits, and vocational rehabilitation for workers who have sustained a personal injury or contracted an occupational disease in the course of any employment covered by the workers' compensation law. Policies must also provide benefits to the surviving dependents of any such worker who dies as a result of a compensable injury or disease.

Any subject employer who purchases and maintains workers' compensation insurance coverage, or who qualifies as a self-insurer, is relieved of all liability for damages for the injury or death of an employee. On the other hand, an employer who fails to obtain insurance or is in default on payment of premiums may be sued by an employee or an employee's dependents for damages in the event of the worker's injury or death, and in any such suit the employer is barred from using as a defense the fact that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Every farm operator or other agricultural establishment with more than 5 full-time workers performing agricultural services is required to obtain and maintain workers' compensation insurance. In turn, any full-time, part-time or seasonal farmworker who is employed by such an establishment is generally entitled to disability compensation and medical benefits for injury sustained on the job.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline, refuse to hire, or discriminate in any other manner against an individual because the individual has filed a workers' compensation claim or received workers' compensation benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Offices of the Insurance Commissioner, West Virginia Department of Revenue, Charleston, West Virginia 25302 (304-558-3029). It is the Commissioner's responsibility to enforce the payment of premiums by employers subject to the workers' compensation law, and assure the payment of compensation and medical benefits for job-related injuries. An employee who is injured at work should promptly report the accident to the employer, who in turn must notify his or her workers' compensation insurance carrier. A worker who is injured on the job and does not receive the medical attention or disability benefits required under this law may file a complaint with the Commissioner's office, by calling 888-879-9842. The complaint form may be obtained online, at www.wvinsurance.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: W. Va. Code §§ 21-2-4 – 21-2-15

GENERAL SUMMARY: Article 2 of the West Virginia labor laws regulates, among other matters, the operation of private employment agencies, which include all persons, firms, corporations and associations that furnish job-seekers with employment information, or that provide employers with information or other assistance in procuring labor or employees. The private employment agency law applies equally to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may provide services as an employment agent for a fee or profit without first obtaining a letter of approval from the state labor department, which authorizes the state tax department to issue a business license. A state business license issued to an employment agent must be conspicuously displayed at all times where the agent conducts business. The licensing provision does not apply to employers who are making placements for individuals on their own payroll.

RECORDKEEPING — An employment agent must maintain a record on each worker referred to employment. At a minimum, the record must contain the name of the worker, the name of the employer to whom the worker was sent, the nature of the employment, and the rate of pay. A copy of the agent's records must be submitted monthly to the state enforcement agency.

PROHIBITED ACTS — It is illegal for an employment agent to knowingly make any false statement to a job-seeker, or to withhold any pertinent information furnished by an employer, regarding the availability, nature, location, duration, pay rate, or other conditions of employment or work.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890). Aside from issuing letters of approval under the private employment agency law, it is the Division's duty to supervise the business activities of licensed agents. Representatives of the Division may at any time inspect the registers and other records maintained by any employment agency in the state, may notify the state tax commissioner concerning any such establishment found to have violated the law or the associated regulations, and may request revocation of the establishment's business license. Failure to comply with these provisions is a misdemeanor, punishable by a fine, jail term, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — West Virginia State Tax Department, Charleston, West Virginia 25301 (304-558-3333). As noted above, this agency is responsible for issuing business licenses to private employment agencies for which the Division of Labor has provided a letter of approval.

LABOR RELATIONS AND COLLECTIVE BARGAINING

LABOR-MANAGEMENT RELATIONS ACT FOR THE PRIVATE SECTOR

STATUTORY CITATION: W. Va. Code §§ 21-1A-1 - 21-1A-8

GENERAL SUMMARY: The Labor-Management Relations Act for the Private Sector encourages the practice of collective bargaining in most trades and industries in West Virginia, by (1) protecting the right of workers to freely associate, self-organize, and designate representatives of their own choosing for the purpose of negotiating terms and conditions of employment, (2) establishing procedures for determining, through secret-ballot elections, the will of the workers in any appropriate bargaining unit to be represented by a labor organization or not, (3) defining and outlawing unfair labor practices by both employers and labor organizations, and (4) prescribing procedures for receiving, investigating and resolving unfair labor practice charges.

PROVISIONS APPLICABLE TO AGRICULTURE: The Labor-Management Relations Act **does not apply** to individuals employed in agricultural production, or in the processing or marketing of agricultural products by the producer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990

STATUTORY CITATION: W. Va. Code §§ 19-16A-1 - 19-16A-27

RELATED REGULATIONS: W. Va. Code R. §§ 61-12A-1 - 61-12A-12 and §§ 61-12B-1 - 61-12B-9

GENERAL SUMMARY: The West Virginia Pesticide Control Act regulates the use of pesticides in the state, largely by (1) requiring applicators to be licensed and certified, (2) requiring pesticide application businesses to post financial security for potential legal damages, (3) prohibiting certain practices by pesticide applicators, (4) establishing a process for receiving and investigating reports of pesticide-related damage, and (5) authorizing the state agriculture commissioner to adopt regulations governing such matters as recordkeeping, pesticide storage and disposal, and other safety protections.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — With some exceptions, no one may engage in the business of applying pesticides to anyone else's property without being licensed by the state as a pesticide application business, and individuals who use or supervise the use of restricted-use pesticides for hire or in their own agricultural operations must be certified as commercial or private applicators. In most cases, a license or certification in any such classification may not be issued unless the applicant passes an examination evidencing knowledge and ability to conduct the prospective pesticide activities safely and effectively.

FINANCIAL SECURITY — As a prerequisite to issuance of a pesticide application business license, the applicant must file proof of a surety bond or liability insurance policy, in an amount not less than \$300,000 for bodily injury or death and \$100,000 for property damage.

RECORDKEEPING — All commercial applicators are required to keep a record detailing each application of restricted-use pesticides performed by them or by someone under their supervision. The record must include the identity of the product used, the concentration or quantity applied, the date and place of application, the target pest involved, and the applicator's name. Private applicators and pesticide application businesses are subject to similar recordkeeping obligations.

PROHIBITED PRACTICES — Among others, the following practices are deemed violations of the Act and grounds for denial, suspension or revocation of an applicator's license and certification:

- Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- (3) Refusing or neglecting to keep required records or make required reports.
- (4) Applying pesticides without the required classification of license, permit or certification, or without supervision by a properly licensed or certified applicator.
- (5) Applying pesticides contrary to label instructions, or contrary to state or federal use restrictions.
- (6) Failing to comply with any provision of the Act or the associated regulations.

DAMAGE REPORTS — Any person claiming damages from a pesticide application may file a report of the incident with the state enforcement agency within 60 days after the alleged damages occurred. If investigation confirms the validity of the claim, the state agency will make a report of its findings available to the parties involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209). This agency is responsible for the testing, licensing and certification of pesticide applicators in the state, and for assuring their compliance with the Act and the corresponding regulations governing their activities. Representatives of the Department are authorized to enter public or private property for the purpose of examining pesticide application equipment, inspecting lands exposed to pesticides, inspecting storage and disposal areas, investigating injury complaints, and sampling pesticides. In addition to suspension or revocation of licensing and certification, any applicator found to have violated these provisions is subject to both civil money penalties and criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990 (AERIAL APPLICATION)

STATUTORY CITATION: W. Va. Code §§ 19-16A-1 - 19-16A-27

RELATED REGULATIONS: W. Va. Code R. § 61-12A-6.3.n

GENERAL SUMMARY: Regulations adopted under the West Virginia Pesticide Control Act include requirements explicitly relevant to aerial operations.

SPECIFIC TERMS AND CONDITIONS: In addition to demonstrating competence in agricultural plant pest control by passing a state-administered written examination, applicants for certification as aerial pesticide applicators must hold a valid agricultural applicator certificate from the Federal Aviation Administration. Like most other classes of commercial pesticide applicators, aerial applicators must have liability insurance or other financial security covering potential legal damages arising from their operations, in the minimum amount of \$300,000 for bodily injury or death, and \$100,000 for property damage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209). The Department is responsible for the testing, licensing and certification of aerial pesticide applicators in the state, and for assuring their compliance with the Act and the corresponding regulations governing their activities.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ EMPLOYEE SAFETY AND WELFARE LAWS (HAZARDOUS CHEMICAL SUBSTANCES)

STATUTORY CITATION: W. Va. Code § 21-3-18

GENERAL SUMMARY: In most industries in the state, every employer of 10 or more employees who uses or produces any hazardous chemical substance appearing on the state's official listing of such materials must post in the work area where the substance is used a notice identifying the material, advising the workers that it is used at the worksite, and describing the symptoms of overexposure. An employer who has knowledge of any incident of exposure involving a listed hazardous chemical substance or material in excess of its published safe exposure level must report the incident to the state within 10 days thereof and provide a copy of the report to the employee or employees affected.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions do not apply to agricultural or horticultural activity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WAGES AND HOURS

O MINIMUM WAGE AND MAXIMUM HOURS LAW

STATUTORY CITATION: W. Va. Code §§ 21-5C-1 - 21-5C-11

GENERAL SUMMARY: With some exceptions, employers in West Virginia who have 6 or more non-exempt employees at any one separate, distinct and permanent business location during any calendar week must pay each of their employees wages at a rate not less than \$8.75 per hour. In the event the federal minimum wage exceeds the state rate, or if the employer has fewer than 6 employees, the federal rate (currently \$7.25 an hour) applies.

Employers subject to the minimum wage are required to keep a written record of the name and address of each employee and the employee's rate of pay, hours of employment, payroll deductions, and net pay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage and maximum hours law **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ MINIMUM WAGE AND MAXIMUM HOURS LAW (MAXIMUM HOURS AND OVERTIME)

STATUTORY CITATION: W. Va. Code §§ 21-5C-1 - 21-5C-11

GENERAL SUMMARY: Apart from establishing a statewide minimum wage, Article 5C of the labor statutes prohibits employers who are not covered by the federal overtime provisions, and who have 6 or more employees at any one permanent business location, from employing anyone for a workweek longer than 40 hours, unless the worker receives compensation of at least 11/2 times the worker's regular rate of pay for each hour of overtime.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage and maximum hours law, and hence the law's overtime protection, **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: W. Va. Code §§ 21-5-2 - 21-5-18

GENERAL SUMMARY: Article 5 of the West Virginia labor laws regulates the payment of wages, including such matters as pay periods, medium of payment, final compensation, and certain required notifications. The wage payment and collection law applies to both agricultural and non-agricultural employment alike.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Other than railroad companies, all employers in the state generally must pay their workers' wages at least twice a month, with no more than 19 days between paydays, unless a different schedule is provided for by special agreement.

MEDIUM OF PAYMENT — Wages may not be paid in any medium other than (1) in lawful U.S. money, (2) by check or similar draft drawn on one or more banking institutions, convenient to the place of employment and where arrangements have been made for cashing at full face value, (3) by deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution, or (4) by any method of depositing immediately available funds in an employee's demand account in a bank or credit union. Use of a payroll card must be agreed upon in writing by both the employer and the employee.

FINAL COMPENSATION — When an employer discharges an employee, the employer must pay the worker's final wages in full no later than the next regular payday. If the employer fails to adhere to this timeframe, the worker is entitled to recover the unpaid amount, plus *two times* the unpaid amount as liquidated damages.

NOTIFICATIONS — At the time of hiring, every employer must provide to each worker hired a written notice of the rate of pay and the day, hour and place of payment. Any change in these conditions must be announced in advance and in writing. There must be a summary of the wage payment and collection law posted at the workplace and accessible to the employees at all times.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890). Representatives of the Division of Labor may enter any place of employment in the state, question employees, examine payroll records and related documents, and take other enforcement action, either in response to a worker's complaint or on the agency's own initiative. At the request of a worker claiming unpaid wages, the Division is authorized to take legal action against the employer to collect the claim. Violation of the wage payment and collection law is also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative claim with the Division of Labor, a worker whose wages have not been paid in accordance with these provisions may recover unpaid wages and damages, if applicable, by bringing suit against the employer directly, utilizing outside legal assistance. The court is authorized to award the worker reasonable attorney's fees if the worker prevails in any such action.

WEST VIRGINIA PERSONAL INCOME TAX ACT (WITHHOLDING)

STATUTORY CITATION: W. Va. Code §§ 11-21-71 - 11-21-77

GENERAL SUMMARY: Every employer who maintains an office or transacts business in West Virginia, and who pays any wages that are taxable under the Personal Income Tax Act to a resident or non-resident individual, must deduct and withhold from such wages for each payroll period a tax computed to approximate the worker's tax liability on the earnings at year's end.

Employers who withhold taxes from their workers' pay are required to remit withheld amounts to the state monthly, quarterly or after the close of the calendar year. By February 15 of the ensuing year, or on the date of the payment of final wages, employers must provide each of their employees a written statement showing the amount of wages paid to the employee and the amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers and their workers are generally subject to the withholding provisions of the Personal Income Tax Act on the same terms as employers and workers in non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Section, West Virginia State Tax Department, Charleston, West Virginia 25301 (304-558-8750).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

Subject	Specific Regulatory Topic or Protection	Coverage	Popular Name or Short Title of Provision	Page
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	Other			
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	Wage Discrimination			
	Age Discrimination			
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	Other			
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and Safety	Agricultural Field Sanitation	•	Migrant Labor Law (Field Sanitation)	777
	Other			
	General Employee Housing Standards			
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Housing	Access and Visitation Rights	•	Migrant Labor Law (Access, Entry, and Tenancy)	779
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omponsation .	Paid Family Leave			
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Labor Contractors and Worker Recruitment	Farm Labor Contractor Registration	•	Migrant Labor Law (Migrant Labor Contractors)	782
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Wisconsin

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
Labor Relations and Collective Bargaining	General Labor Relations	•	Employment Peace Act	784
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	Other		General Labor Laws (Recruitment of Strikebreakers)	785
Pesticides and Agricultural Chemicals	General Application Standards	•	Pesticide Laws	786
	Aerial Application Standards	•	Pesticide Laws (Aerial Application)	787
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	Hazard Communication	0	Employees' Right to Know Law	788
	Anhydrous Ammonia	0	Regulation of Industry General Provisions (Anhydrous Ammonia)	788
	Other			
	General Employee Transportation Safety			
Transportation	Farmworker Transportation Safety	•	Migrant Labor Law (Transportation of Migrant Workers)	789
	Other			
Wages and Hours	Minimum Wage	•	Minimum Wage Law	790
	Overtime Pay	00	General Labor Laws (Hours of Labor and Overtime) Migrant Labor Law (Hours of Labor and Overtime)	790 791
	Hour Standards			
	Wage Payment and Collection	0.0	Wage Payment, Claims, and Collection Law Migrant Labor Law (Wage Payment)	791 792
	Agricultural Liens			
	Income Tax Withholding	•	Income Tax Law (Withholding)	793
	Other	•	Migrant Labor Law (Guaranteed Hours)	793
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Wis. Stat. §§ 103.64 - 103.82

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 270

GENERAL SUMMARY: The Wisconsin child labor laws establish a minimum age of 14 for lawful employment in most gainful occupations in the state, limit the working hours of minors under 18 in various categories of employment, require issuance of a child labor permit as a precondition for hiring most minors, and authorize the state labor department to adopt additional standards necessary to protect the life, health, safety and welfare of the state's youth.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast with the 14-year age threshold in most other trades and occupations, children as young as 12 may be employed in agricultural pursuits.

SCHOOL ATTENDANCE — Minors under 18 years of age are generally forbidden to work in any gainful employment during the hours they are required to attend school.

PROHIBITED OCCUPATIONS — Among numerous other agriculturally related activities deemed hazardous by the state labor department, minors under 16 years of age are forbidden to operate or assist in the operation of mechanical harvesting equipment, mowers, balers, grinders and similar farm machinery. Such individuals are not permitted to work from any ladder or scaffold at a height more than 20 feet. Children under 16 are also prohibited from handling or applying any toxic agricultural chemical whose container is branded with the word "Poison" or "Warning" or displays the skull-and-crossbones symbol, and from transporting, transferring or applying anhydrous ammonia. The state child labor regulations do provide for exceptions to these restrictions, but only under relatively narrow circumstances.

MEAL PERIODS — No one under 18 may be employed or permitted to work more than 6 consecutive hours without a meal period of at least 30 minutes' duration.

WORKING HOURS — The restrictions on the maximum hours and times of day during which minors may be lawfully employed *do not apply* to farm labor.

CHILD LABOR PERMITS — The provisions generally barring the employment of minors who do not possess a child labor permit issued by the state *do not apply* to children age 12 and over engaged in farming.

SOLICITATION OF CHILD LABOR — The prohibitions against advertising for the services of minors during school hours, and soliciting minors in schools and homes for purposes of employment, **do not apply** to agriculture or any other line of work which does not require a child labor permit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). To enforce compliance with the child labor laws, representatives of this agency are authorized to visit and inspect all places of employment subject to these provisions. Any employer who employs or permits a minor to work unlawfully is subject to a fine of between \$25 and \$1,000 for a first offense, and a fine of up to \$5,000 and imprisonment for up to 30 days for subsequent violations. Parents or guardians may also be fined for allowing a child in their custody or under their control to be unlawfully employed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — School attendance officers have authority comparable to that exercised by the Department to visit and inspect workplaces for the purpose of monitoring compliance with the child labor laws.

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Wis. Stat. §§ 118.15 and 118.16

GENERAL SUMMARY: Any person having control of a child between the ages of 6 and 18 must see that the child regularly attends a public or private school for the full period and during all hours that the school is in session, until the child graduates from high school, until the end of the term in which the child reaches the age of 18, or unless the local school board excuses the child from attendance under one of several statutory exemptions from this requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no categorical exceptions to compulsory school attendance by the children of agricultural workers or for reasons directly related to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school attendance officers designated by the local school boards. Attendance officers are authorized to visit any place of employment and any public or private school in their respective districts, to examine age and employment certificates, inspect attendance records, and conduct related enforcement activities. Before the end of the second school day after discovering or receiving a report of an unexcused absence by a child of compulsory school age, the attendance officer must give notice to the child's parent or guardian, directing return of the child to school no later than the next school day. Continued non-compliance with the law may lead to prosecution of the child's custodian and a fine, jail term, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CIVIL RIGHTS

WISCONSIN FAIR EMPLOYMENT ACT

STATUTORY CITATION: Wis. Stat. §§ 111.31 - 111.395

GENERAL SUMMARY: The Wisconsin Fair Employment Act outlaws, among other practices, unfair discrimination in employment against properly qualified individuals, and establishes state-administered procedures for resolving related complaints. The Act applies to employers and employees in virtually all trades and industries in the state.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — With certain narrow, explicitly defined exceptions, no employer may engage in any of the following acts of employment discrimination:

- (1) Refusing to hire a job applicant, discharging an employee, or discriminating against an individual with respect to promotion, compensation, or the terms, conditions or privileges of employment, because of the individual's age (40 or over), race, creed, color, disability, marital status, sex, sexual orientation, pregnancy or childbirth, national origin, ancestry, arrest record, conviction record, military service, use or non-use of lawful products off the employer's premises during non-working hours, or declining to attend a meeting or to participate in any communication about religious or political matters.
- (2) Printing or circulating any statement, advertisement or notice, using any form of job application, or making any inquiry in connection with prospective employment, which implies or expresses any preference, limitation or discrimination on any of the above-cited grounds.
- (3) Discharging or otherwise discriminating against an individual because he or she has opposed any discriminatory practice, or because he or she has made a complaint, testified or assisted in any proceeding under this law.

Comparable prohibitions apply to employment agencies and labor organizations.

COMPLAINTS — Anyone aggrieved by a discriminatory employment practice may file a complaint with the state enforcement agency at any time within 300 days after the alleged practice occurred. Once a complaint is filed, the agency will notify the employer involved, undertake an impartial investigation, and attempt to settle the problem by informal means. If the investigation finds probable cause to believe discrimination has occurred, the matter will be heard by an administrative law judge in a formal hearing. If evidence presented at the hearing confirms an unlawful act of discrimination, the ALJ may order back pay to the complainant, reinstatement to the job, lost benefits or other appropriate relief, as well as attorney's fees (if any) and costs. Such an order is enforceable in court.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Civil Rights Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53708 (414-227-4396). In enforcing the Fair Employment Act, the Equal Rights Division has authority to conduct investigations, hold hearings, subpoena witnesses, take testimony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

HEALTH AND SAFETY

REGULATION OF INDUSTRY GENERAL PROVISIONS

STATUTORY CITATION: Wis. Stat. §§ 101.01 - 101.11

RELATED REGULATIONS: Wis. Admin. Code Chs. SPS 301 - 500

GENERAL SUMMARY: Chapter 101, Subchapter I of the Wisconsin statutes defines the functions of the Department of Safety and Professional Services and contains both general and specific standards relating to the welfare of employees and others who frequent places of employment. The state safety department has explicit authority under these provisions to prescribe and enforce rules regulating workplace safety and health in all industries and occupations in Wisconsin, except where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan.

PROVISIONS APPLICABLE TO AGRICULTURE: Since Wisconsin does not have an OSHA-approved state plan, the state safety department has **no authority** to regulate workplace safety and health in private-sector workplaces, in either the agricultural or non-agricultural sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ MIGRANT LABOR LAW (FIELD SANITATION)

STATUTORY CITATION: Wis. Stat. §§ 103.90 – 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.09

GENERAL SUMMARY: Using the rulemaking authority in Wisconsin's migrant labor law, the state labor department has adopted administrative regulations requiring certain agricultural employers to provide toilet facilities, handwashing facilities and drinking water to their employees, without cost to the workers. The regulations apply to operations where 6 or more migrant workers are engaged in hand labor in the field.

SPECIFIC TERMS AND CONDITIONS

TOILET FACILITIES — Wherever there are 6 or more migrant workers performing hand labor operations, the employer must provide toilet facilities, in the ratio of one toilet for every 20 workers. The facilities must be located within 1/4 mile of the workers or at the closest vehicular access. Each toilet unit must have a door that is lockable from the inside and include an adequate supply of toilet paper.

HANDWASHING FACILITIES — The employer must also provide at least one handwashing facility for every 20 workers, located within 1/4 mile of the workers or at the closest vehicular access.

Exception — If providing handwashing facilities creates a practical difficulty or hardship, the employer may apply to the state enforcement agency for a variance authorizing substitution of pre-packaged towelettes instead, provided the substitution does not compromise the health or safety of the workers.

DRINKING WATER — Potable drinking water must be provided for the workers, at a readily accessible location. The water must be kept cool, in insulated containers that are clean and sanitary. The water must be dispensed in single-serving drinking cups; the use of common cups or dippers is prohibited.

In all cases, workers must be allowed reasonable opportunities during the workday to use the facilities provided.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). A migrant worker who has been denied drinking water or sanitation facilities in the field in violation of these requirements may file a complaint with the Department, which is authorized to investigate the complaint and take action to assure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

HOUSING

MIGRANT LABOR LAW (MIGRANT LABOR CAMPS)

STATUTORY CITATION: Wis. Stat. §§ 103.90 - 103.97

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 301

GENERAL SUMMARY: Among other regulatory matters, Wisconsin's migrant labor law governs the operation of migrant labor camps, defined in brief as any site and all structures thereon maintained as living quarters for one or more workers who leave their principal place of residence outside the state and come to Wisconsin for not more than 10 months a year to engage in seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may operate a migrant labor camp without an annual certificate from the state. By April 1 each year, or no later than 30 days prior to opening a new camp, the owner or operator of such a facility must apply for certification. The state agency must inspect each camp for which an application for certification has been received, and if the camp complies with minimum administrative standards, the agency will issue a certificate authorizing operation of the facility through March 31 of the ensuing year.

MINIMUM STANDARDS — The state agency has adopted detailed specifications for the construction and equipment of migrant labor housing, some of which are summarized below.

Housing Site — No migrant labor camp may be subject to health or safety hazards, or in proximity to conditions that could cause such hazards, and the camp site must be kept free of debris.

Notice of Pesticide Applications — At least 24 hours in advance, the camp operator is required to provide camp occupants with notice of any pesticide application on any land adjacent to the camp which is owned or controlled by the operator. Whenever a camp operator is advised of an aerial pesticide application on adjacent land belonging to someone else, the operator must advise camp occupants as soon as reasonably possible. In either case, notice must be posted on a camp bulletin board or other central gathering place, and must be written in English and in the occupants' language, if other than English.

Water Supply — An adequate and convenient supply of water safe for human consumption must be provided to the camp's residents.

Waste Disposal — Where a public sewer system is accessible, the camp's waste disposal facilities must be attached to the system. Otherwise, a septic tank or other type of liquid waste treatment and disposal system must be provided.

Structures — Housing units and other structures must comply with specified building codes. There must be at least 100 square feet of floor space in areas used for combined cooking, eating and sleeping purposes; otherwise, there must be at least 50 square feet of floor space per occupant. Separate sleeping accommodations must be provided for each sex or for each family.

Screening — All outside doors, windows and other openings must be properly screened, using not less than 16-mesh screening.

Heating — Living quarters and service buildings must be equipped with permanently installed and operable heating devices capable of maintaining a temperature of at least 68 degrees F. Heaters using combustible fuel must be properly vented.

Electricity and Lighting — All housing sites are required to provide electric service. There must be adequate light fixtures and outlets in all living areas.

Toilets — Toilet facilities must be located within 200 feet of each living unit, and except in individual family units, there must be separate toilet accommodations for men and women. Privies are not permitted.

Bathing, Laundry and Handwashing Facilities — Within 200 feet of each living unit, there must be clean and sanitary bathing and handwashing facilities, supplied with hot and cold water under pressure. Common-use facilities must be properly separated by sex.

Laundry Facilities — Occupants must have use of laundry facilities, with adequate hot and cold water under pressure. Laundry rooms must be equipped with no less than one washing machine for every 30 residents, along with at least one laundry tray, tub or sink.

Cooking and Eating Facilities — Workers or families who are required or permitted to cook in their individual units must be furnished with a cook stove (with oven), adequate food storage and preparation space, mechanical refrigeration capable of maintaining food at a temperature no greater than 45 degrees F., a table and chairs or equivalent seating and eating arrangements, and an adequate sink with hot and cold water under pressure. Congregate food service facilities are subject to similar specifications.

Garbage and Other Refuse — There must be durable fly-tight containers, with a minimum capacity of 20 gallons, adjacent to each unit for the storage of trash, in a minimum ratio of one for every 10 persons. Trash must be collected at least twice a week.

Sleeping Facilities — Every occupant of a migrant camp must be provided with a bed or bunk, equipped with a clean mattress. Any bedding supplied by the camp operator must be clean and sanitary.

Fire, Safety, and First Aid — Camps must be built and maintained in accordance with state and local fire and safety laws. There must be multiple means of escape in the event of fire, and not more than 100 feet from each housing unit there must be readily accessible fire extinguishing equipment and first-aid supplies. There must be a functional smoke detector in each sleeping area. No flammable liquids or materials (other than those needed for current household use) may be stored in or around living areas, and agricultural pesticides and toxic chemicals may not be stored in the housing area.

Operator Responsibilities — At least once a week, the camp operator is required to inspect the camp to see that all areas are kept clean and orderly and that broken or damaged property is promptly repaired. The operator must designate someone to maintain the grounds and common-use facilities, and if the camp houses 100 persons or more, the operator must provide a full-time staff member for that purpose.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). This agency is responsible for inspecting and certifying migrant labor camps in Wisconsin, and for enforcing the continued compliance of licensed housing with the state minimum standards. After providing notice to the owner or operator, agents of the Department may enter any property during reasonable daylight hours to determine whether a facility subject to these provisions exists, and to make an initial or follow-up inspection. After a mandatory 15-day correction period, the Department may revoke a certificate and order closure of the camp if it finds a violation of standards. In general, failure to correct a violation within 15 days of receipt of formal notice from the Department may lead to a money penalty against the owner or operator of the facility.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

MIGRANT LABOR LAW (ACCESS, ENTRY, AND TENANCY)

STATUTORY CITATION: Wis. Stat. §§ 103.925 – 103.926

GENERAL SUMMARY: Wisconsin's migrant labor law includes, among other provisions, certain assurances regarding farmworker housing rights.

SPECIFIC TERMS AND CONDITIONS

ACCESS AND ENTRY — Migrant agricultural workers have the right to decide who may visit them at their residence, and no one may prohibit or interfere with access to or egress from the residence of any such worker, either by the use of a fence or other physical barrier, by posting of any sign or notice, or by the use or threat of force or violence. Any fence erected around a migrant labor camp must have one or more gateways, and posting of land adjacent to a camp is not permitted unless access to the camp is clearly marked.

VACATING RESIDENCE — After a migrant worker's employment has been terminated, an employer may not require the worker to vacate residence at a migrant labor camp operated by the employer until the worker has received final payment of wages in full.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). Any migrant worker who has been denied visitation by guests at his or her residence, or any person who has been invited to a worker's residence and has been refused entry, may file a complaint with the Department, which is authorized to investigate the complaint and take action to assure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

INSURANCE AND COMPENSATION

■ UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Wis. Stat. §§ 108.01 - 108.26

GENERAL SUMMARY: Chapter 108 of the Wisconsin statutes authorizes the payment of unemployment insurance benefits to workers who are temporarily out of work, have recent earnings from insured employment, and meet other qualifications. To finance the payment of UI benefits, the law establishes an unemployment reserve fund and requires most employers in the state to pay contributions to the fund in rough proportion to their payroll expenditures. With some exceptions, employers are required to pay UI taxes if they (1) paid wages totaling \$1,500 or more during any quarter of the current or preceding calendar year, or (2) employed at least one worker for any part of a day in each of 20 or more calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — In general, every farm operator or other agricultural establishment that (1) paid cash wages for agricultural labor amounting to \$20,000 or more during any quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in at least 20 different calendar weeks in the current or preceding calendar year, is required to pay UI contributions to the state. With respect to each employee, a subject employer is liable for contributions on the first \$14,000 in wages paid during the calendar year, at a tax rate assigned by the state administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker not otherwise disqualified is eligible for unemployment insurance benefits only if the worker (1) is able to work, available for work, and seeking suitable work, (2) has registered for work with the public employment service, and (3) has, during the first four of the last five calendar quarters immediately preceding the initial claim for benefits, earned at least 35 times the weekly benefit rate (explained below) from UI-covered employment, and at least 4 times the weekly benefit rate outside the one quarter in which earnings were highest.

AMOUNT OF BENEFITS — The weekly benefit rate for an eligible worker who is totally unemployed is generally equal to 4 percent of the claimant's earnings during the one quarter of the four-quarter base period when earnings were highest; currently, UI benefits may range from \$53 to \$370 per week. For any week during which an eligible claimant has earnings from part-time employment, the first \$30 of the week's wages are disregarded in computing the amount of the UI payment, and the claimant's applicable weekly benefit rate is reduced by 67 percent of the remaining amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (414-438-7705). The Department has control of all aspects of the state's unemployment insurance system, from collection of UI taxes from subject employers, to payment of UI benefits to eligible workers, to adjudication of tax and benefit appeals. Claims for unemployment compensation may be filed online, at my unemployment.wisconsin.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WORKER'S COMPENSATION ACT

STATUTORY CITATION: Wis. Stat. §§ 102.01 – 102.89

GENERAL SUMMARY: With some exceptions, the Worker's Compensation Act requires employers who regularly have 3 or more employees, or who pay wages amounting to \$500 or more in any calendar quarter, to carry workers' compensation insurance in case of an employee's injury or death in the course of employment. Employers with 3 or more employees must obtain insurance immediately upon employing a third person, while an employer who pays \$500 or more in a calendar quarter must obtain insurance by the 10th day of the first month of the next calendar quarter.

Among the benefits to which covered employees are entitled in the event of a work-related injury are (1) coverage of all reasonable and necessary medical costs, (2) cash payments for temporary loss of wages while the employee is recovering from the injury, (3) cash payments for permanent disability if the employee does not fully recover from the injury, (4) vocational rehabilitation, and (5) death benefits and payment of burial expenses if death occurs as a result of the injury.

An employer who does not comply with the responsibility to insure the payment of compensation is subject to a civil penalty and possible closure of the business, and becomes personally liable for uninsured benefit claims for which the injured employee is eligible.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other farming establishment that employs 6 or more employees at one or more locations, working on the same day for 20 or more days during a calendar year, is required to secure workers' compensation insurance within 10 days after the 20th such day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Worker's Compensation Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-1340). It is the Department's duty to see that all employers subject to the Worker's Compensation Act secure coverage for the protection of their employees, and that claims are processed and benefits are paid in conformity with statutory standards.

An injured employee should give notice to the employer within 30 days of any injury, or, in the case of an occupational disease, within 30 days of the time the employee becomes aware of the disability and its relation to the employment. If notice is not given within 30 days, the worker may give notice anytime within 2 years of the date the injury occurred, the date of the onset of the disease, or the date the worker first realized that such injury or disease was caused by his or her work.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

○ EMPLOYMENT AGENTS LAW

STATUTORY CITATION: Wis. Stat. §§ 105.01 – 105.16

GENERAL SUMMARY: Chapter 105 of the Wisconsin statutes regulates the business activities of employment agents, a term which includes all persons who furnish job-seekers with information enabling them to secure employment, furnish employers with information enabling them to fill job vacancies, or maintain a register of persons seeking employment or workers. The employment agents law forbids the conduct of such activities unless the employment agent is licensed by the state and covered by a \$5,000 surety bond.

License applicants must submit a schedule of the fees charged to workers and employers using their services, and licensees are prohibited from assessing charges in excess of fee ceilings fixed by the state enforcement agency. Among other prohibited acts, employment agents may not misrepresent any material aspect of any employment or labor that they may be in a position to secure, and no agent may place a worker in any employment which is unlawful or in conflict with a regulation or order of the state agency. Employment agents are also subject to administratively prescribed recordkeeping and reporting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment agents law **does not apply** to persons (implicitly including seasonal agricultural labor contractors) who employ workers to render temporary or part-time services to, for or under the direction of a third party, provided that the person employing the workers (1) pays federal Social Security taxes, pays state and federal unemployment insurance contributions, carries required workers' compensation insurance, and maintains liability insurance covering the acts of its employees while on the job, and (2) does not require a worker to forfeit or pay any amount for accepting permanent employment with any one of the third parties for whom the worker performed temporary or part-time services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ MIGRANT LABOR LAW (MIGRANT LABOR CONTRACTORS)

STATUTORY CITATION: Wis. Stat. §§ 103.90 – 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.05

GENERAL SUMMARY: Among its other provisions, Wisconsin's migrant labor law regulates the activities of migrant labor contractors, generally defined as anyone (other than an employer doing so on his or her own behalf) who, for a fee or other consideration, recruits, solicits, hires or furnishes migrant workers (other than members of the contractor's immediate family) for employment in Wisconsin. In brief, the term "migrant worker" means anyone who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — It is illegal for anyone to operate as a migrant labor contractor without first obtaining a registration certificate from the state. Registered labor contractors must carry their certificate at all times while performing contracting activities, and must show the certificate to all parties with whom they intend to deal in that capacity. Likewise, agents employed by registered contractors to assist them in contracting work must carry identification indicating their status as agents of a registrant.

DUTIES — Among other responsibilities, every migrant labor contractor and every contractor's agent is required (1) to file an official change of address within 10 days after each such change, (2) to promptly pay or deliver to the persons entitled thereto all money or things of value entrusted to the contractor by third parties, (3) to comply with all contracts or agreements entered into, and (4) to keep and preserve prescribed records.

PROHIBITED ACTIVITIES — Migrant labor contractors and their agents are forbidden from (1) knowingly giving a worker any false or misleading information, or failing to fully disclose any information, concerning the terms, conditions or existence of employment, (2) receiving, disbursing or withholding a worker's wages, except to distribute a check payable to the worker, (3) charging or collecting from a worker any sum for goods or services furnished to the worker, when such sum exceeds the actual cost of providing the goods or services, or (4) violating the migrant labor law's recruitment and contract provisions (see next entry).

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). This agency is responsible for issuing migrant contractor registration certificates and for assuring registrants' compliance with the migrant labor law and the associated rules and regulations. Violation of these provisions, or any material misrepresentation or false statement in a registration application, is grounds for suspension or revocation of a migrant labor contractor's certificate, as well as assessment of a money penalty.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

■ MIGRANT LABOR LAW (MIGRANT WORK AGREEMENTS)

STATUTORY CITATION: Wis. Stat. §§ 103.90 – 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.06

GENERAL SUMMARY: Wisconsin's migrant labor law requires agricultural employers, labor contractors, and other entities that hire or recruit migrant agricultural workers for employment in the state, to provide the workers with certain pre-employment disclosures and with a written work agreement at the time of hiring.

SPECIFIC TERMS AND CONDITIONS

PRE-EMPLOYMENT DISCLOSURE — At the time of recruitment of any out-of-state migrant worker for temporary seasonal agricultural employment in Wisconsin, the employer or contractor involved must provide the worker with a written disclosure of the terms and conditions of employment, identical in content to the required work agreement described below. The disclosure must be in English, and in the worker's customary language if other than English.

WRITTEN WORK AGREEMENT — At the time of hiring, the employer or contractor must provide each migrant worker recruited or hired with a written work agreement, signed by the employer and by the worker (or the head of the family, if a family is employed). The work agreement must be in English, and in the worker's customary language if other than English.

Employment Conditions — The work agreement must specify the place of employment, the kind of work to be performed, the applicable wage rates to be paid, the length of the pay period, the approximate hours of employment and applicable overtime pay provisions, the approximate starting and ending dates of the job, the housing to be provided and its cost to the worker, the cost of any employer-provided meals, the arrangements for transportation, the names of all family members to be employed (if applicable), and the charges or deductions to be made against the worker's earnings beyond those required by law.

Guaranteed Hours — The work agreement must contain a guarantee of (1) at least 45 hours of work in each 2-week period for workers employed in agricultural field work only, or (2) at least 20 hours of work in each one-week period, or 64 hours in a 2-week period, if the worker is employed in both field and processing operations. The guarantee covers the entire interval from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

Exceptions to Guarantee — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available. Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to seriously adverse circumstances beyond the employer's control; within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). A migrant worker who has not received a recruiting disclosure statement, a written work agreement, or pay in accordance with guarantees shown in the work agreement, should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

GENERAL LABOR LAWS (FRAUDULENT ADVERTISING FOR LABOR)

STATUTORY CITATION: Wis. Stat. § 103.43

GENERAL SUMMARY: It is unlawful to recruit or persuade workers to change from one place of employment to another in Wisconsin, or to bring workers of any sort into the state, (1) by means of misrepresentation, false advertising or false pretenses concerning the nature of the work to be done, the amount of compensation to be paid, or the sanitary or other conditions of the job, or (2) by failure to advise the workers of the existence of a strike or lockout at the place of proposed employment, when in fact such a labor dispute actually exists there.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to all recruitment activities, without distinction as to occupational class.

SPECIAL NOTES OR ADVISORIES

APPLICATION OF LAW — According to the Department of Workforce Development, this law has been held to apply to manual laborers *only*, industrial labor in particular.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). The Department has general authority to investigate compliance with the state labor and employment laws, and to prosecute persons found in violation. Anyone convicted of labor recruitment practices contrary to these provisions is subject to a fine of up to \$2,000, imprisonment for up to one year, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has been influenced or persuaded by misrepresentation, false advertising, or false pretenses to relocate for purposes of employment has a right to recover from the party responsible for the violation all damages sustained as a consequence, plus court costs and attorney's fees.

LABOR RELATIONS AND COLLECTIVE BARGAINING

EMPLOYMENT PEACE ACT

STATUTORY CITATION: Wis. Stat. §§ 111.02 - 111.19

GENERAL SUMMARY: The Employment Peace Act establishes standards for the conduct of private-sector labor relations in Wisconsin and provides a state-administered mechanism for resolving conflicts over the respective rights and obligations of private-sector employees, employers and labor organizations. The Act applies to virtually all private employment other than domestic service in the home.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Employees have the right to organize, to form, join and assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful activities for mutual aid or protection. Workers are also entitled to refrain from any or all such activities.

Effective March 11, 2015, employees cannot be required to make any payments to a labor organization, nor can employee payments to a labor organization be required as a condition of obtaining or continuing employment.

REPRESENTATIVES AND ELECTIONS — Whenever a worker, a group of workers, or an employer, through a formal petition to the state administering agency, raises a question concerning the will of the workers to be represented for collective bargaining purposes, the state agency is required to respond by arranging a secret-ballot election to resolve the issue. The names of all persons or organizations submitted by any of the workers participating in the election must appear on the ballot, and workers must also be given the option of voting against representation by anyone named on the ballot. Representatives chosen by a majority of the workers in a collective bargaining unit are the exclusive representatives of all employees in the unit for collective bargaining purposes, though any worker or minority group of workers still has the right to present grievances at any time to their employer in person or through representatives of their own choosing.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is unlawful for an employer (1) to interfere with, restrain or coerce employees in the exercise of the rights outlined above, (2) to dominate or interfere with the formation or administration of a labor organization, or contribute financial support to it, (3) to encourage or discourage membership in a labor organization by discriminating in regard to hiring, tenure or other terms or conditions of employment, (4) to refuse to bargain with the representative of a majority of the workers in a bargaining unit, or (5) to violate the terms of a collective bargaining agreement.

AGRICULTURAL STRIKES — Where the exercise of the right to strike by agricultural workers would tend to cause the destruction or serious deterioration of farm products produced in Wisconsin, the workers must give the state agency at least 10 days' notice of their intention to strike. The agency must immediately notify the employer of receipt of such notice, and must take immediate steps to mediate the dispute or induce the parties to submit the controversy to arbitration if mediation is unsuccessful.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wisconsin Employment Relations Commission, Madison, Wisconsin 53704 (608-243-2424). The Commission is responsible for overseeing the general conduct of labor relations and collective bargaining activities in the state, for resolving specific questions regarding employee representation, and for resolving unfair labor practice complaints. Any worker who believes his or her rights under the Employment Peace Act have been abridged or violated may file a complaint with the Commission, which is authorized to hold investigatory hearings, subpoena witnesses and documents, take sworn testimony, and order appropriate corrective action by any respondent found in violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

GENERAL LABOR LAWS (RECRUITMENT OF STRIKEBREAKERS)

STATUTORY CITATION: Wis. Stat. § 103.545

GENERAL SUMMARY: Chapter 103 of the state statutes contains provisions prohibiting the recruitment of strikebreakers, generally defined as anyone who at least twice during the previous 12-month period has accepted employment for the duration of a strike or lockout in place of employees involved in the dispute. These provisions apply to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS: No employer may knowingly employ or contract with another party to employ any strikebreaker to replace employees who are on strike against or locked out by the employer. Likewise, no one who is not directly involved in a strike or lockout may recruit a strikebreaker for employment when the purpose of such activity is to have the strikebreaker replace an employee in an industry or establishment where a strike or lockout is in progress. It is also illegal for anyone to transport or arrange to transport any strikebreaker to Wisconsin for employment in an establishment affected by a strike or lockout.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-6860). A worker adversely affected by an apparent violation of these provisions may submit a complaint to the Department, which has authority to investigate and issue orders to enforce compliance. The statute provides for a criminal fine, imprisonment or both such penalties for a violation of this provision.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDES AND AGRICULTURAL CHEMICALS

PESTICIDE LAWS

STATUTORY CITATION: Wis. Stat. §§ 94.67 - 94.71

RELATED REGULATIONS: Wis. Admin. Code Ch. ATCP 29

GENERAL SUMMARY: Chapter 94 of the state statutes contains, among other material, sections regulating the registration, manufacture, sale, use and disposal of pesticides. Of particular relevance to the safety and health of workers performing agricultural field operations are provisions requiring the certification and licensing of pesticide applicators, imposing recordkeeping duties on certified commercial applicators, defining certain prohibited acts involving pesticides, and authorizing the state agriculture department to adopt rules further prescribing the conditions under which pesticides may be used, when such regulation is necessary for the protection of people and property from serious pesticide hazards.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING — In general, no one may apply any pesticide for hire without being licensed and certified as a commercial applicator by the state, and farm operators may not apply or supervise the application of restricted-use pesticides in connection with agricultural production on their farms without being certified as private applicators. Certification requires, in part, that the applicant demonstrate competence with respect to the use of pesticides in the category or categories of use for which certification is desired. For commercial applicators, competence must be determined on the basis of written examination, while private agricultural pesticide users normally may be certified either through training or by examination.

RECORDKEEPING — All commercial applicators must maintain a record of each use of pesticides. The record must document the type and amount of each formulation used, the location of the pesticide application, the date of application, and the use for which the treatment was intended. Records must be preserved for at least 2 years after the date of each use.

PESTICIDE STORAGE — Pesticides must be stored in accordance with label instructions and in such a way that labels are not damaged or destroyed. Storage areas generally must be secure against entry by children or the general public.

DISPOSAL OF PESTICIDES AND PESTICIDE CONTAINERS — No one may dispose of pesticides or pesticide containers in a manner contrary to the directions on the product's label or in any way which could create a hazard to humans, property, fish or wildlife. Except in connection with professional recycling, it is illegal to re-use pesticide containers for any purpose.

PESTICIDE DRIFT — No one may use a pesticide in a way that results in pesticide over-spray or drift.

PRE-HARVEST INTERVALS — It is illegal for a farm operator to harvest an agricultural commodity from the site of a pesticide application during the pre-harvest interval specified for that crop on the pesticide label.

DEFECTIVE APPLICATION EQUIPMENT — Use of pesticide application equipment that is clogged, unclean or in disrepair, or that cannot be properly calibrated, is prohibited.

WARNING SIGNS AT APPLICATION SITES — In a situation where (1) an agricultural pesticide label requires both posted and oral warnings before the product is applied, and (2) the application site is within 300 feet of a migrant labor camp or other residence, school, playground or similar facility where people are likely to be present during the restricted-entry interval specified on the pesticide label, either the pesticide applicator or the owner or operator of the property targeted by the application must post warning signs that meet the location, visibility and content requirements prescribed in the regulations.

PROHIBITED ACTS — It is unlawful for anyone to commit any of the following acts, among numerous others:

- (1) To detach, alter, deface or destroy any part of a pesticide label, or alter the contents of a pesticide container.
- (2) To use any restricted-use pesticide contrary to its labeling or other limitations imposed on its use by federal or state law.

- (3) To use or supervise the use of pesticides without required certification, licensing or supervision.
- (4) To fail to maintain required records or make required reports.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545). The Department is responsible for the testing, certification and licensing of pesticide applicators in Wisconsin, and for assuring their compliance with the statutory and regulatory provisions applicable to pesticide users. Apart from loss of certification and licensing, a commercial or private applicator who violates the pesticide laws, or the associated rules or orders of the Department, is subject to a criminal fine and imprisonment, as well as civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDE LAWS (AERIAL APPLICATION)

STATUTORY CITATION: Wis. Stat. §§ 94.67 - 94.71

RELATED REGULATIONS: Wis. Admin. Code § ATCP 29.53

GENERAL SUMMARY: In addition to general provisions governing ground applications of pesticides, the administrative rules established under the state pesticide laws also contain explicit standards regulating the aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply a pesticide from the air unless certified as an aerial applicator. In addition to the requirements for general certification, an aerial operator must (1) provide proof that he or she is licensed and fully trained to operate and apply pesticides with each type of aircraft used for that purpose, and (2) demonstrate competency and practical knowledge of aerial pest control, the health and environmental hazards related to aerial applications, and the prevention of pesticide over-spray and drift.

AIRCRAFT REQUIREMENTS AND OPERATIONS — Aircraft used to apply pesticides must meet state and federal standards, and must be operated in accordance with state and federal operating procedures.

PRIOR NOTICE OF APPLICATIONS — At least 24 hours before the application of any pesticide by aircraft, the owner of the land to be treated is required to notify the operators of all migrant labor camps immediately adjacent to the targeted areas, and to notify the residents of any closely adjoining property who give written request for such notification. The notification may be oral or written, but must include the intended date and time of the application, the identity of the pesticide product to be applied, and the location of the application site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545). The Department is responsible for the testing, certification and licensing of aerial pesticide applicators in Wisconsin, and for assuring their compliance with the statutory and regulatory provisions applicable to aerial operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PESTICIDE LAWS (WORKER PROTECTION)

STATUTORY CITATION: Wis. Stat. §§ 94.67 – 94.71

RELATED REGULATIONS: Wis. Admin. Code §§ ATCP 29.60 - 29.66

GENERAL SUMMARY: The administrative rules established under the state pesticide laws include provisions immediately relevant to agricultural worker safety.

SPECIFIC TERMS AND CONDITIONS

COMPLIANCE WITH FEDERAL STANDARDS — Agricultural employers in Wisconsin, as well as individuals and firms that mix, load or apply agricultural pesticides in the state, are required to comply with the worker protection standards established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

WARNING SIGNS — Agricultural employers are required to post worker protection warning signs at pesticide application sites, as required under the EPA regulations referenced above. The signs generally must be at least 14 inches by 16 inches in size and constructed to resist deterioration. They must go up no more than 24 hours before the pesticide application is scheduled to begin, remain posted for the duration of the restricted-entry interval specified on the product label, and be removed or covered not more than 3 days after the re-entry period expires.

EARLY ENTRY TO TREATED FIELDS — An agricultural employer may have agricultural workers enter a treated field before the restricted-entry period has expired, but only if (1) early entry is necessary to prevent or mitigate the effects of an unanticipated agricultural emergency, (2) early entry complies with the applicable EPA worker protection standards, (3) the workers entering the treated area have been trained in accordance with the EPA standards, and (4) the employer files a written report of the emergency situation with the state enforcement agency. The report must include the date and location of the early entry, a description of the emergency that necessitated early entry, the name and EPA registration number of the pesticide applied to the area, and the number of agricultural workers involved in the early entry.

AGRICULTURAL WORKER TRAINING — An agricultural employer is prohibited from requiring or allowing an agricultural worker to enter a field subject to a restricted-entry interval during the previous 30 days, unless the worker has received the worker safety training required under the EPA standards referenced above. The training must have been administered by a person certified or qualified as such by the state agency. Employers of agricultural workers must keep prescribed records of pesticide training for each worker or handler employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545). Farm operators, pesticide applicators and others who fail to comply with the requirements outlined above are subject to a criminal fine and imprisonment, as well as civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EMPLOYEES' RIGHT TO KNOW LAW

STATUTORY CITATION: Wis. Stat. §§ 101.58 - 101.599

GENERAL SUMMARY: The Employees' Right to Know Law (1) requires most employers in Wisconsin to provide their employees with certain notifications and printed information regarding toxic substances, infectious agents, and pesticides in the workplace, (2) grants an employee the right to refuse to work with or around any such material unless the employer supplies related information requested by the worker, and (3) requires employers to provide an education or training program to employees prior to initial assignment to a job site when they may be routinely exposed to hazardous materials.

PROVISIONS APPLICABLE TO AGRICULTURE: State law explicitly prohibits the safety department from regulating workplace safety and health in agricultural and non-agricultural workplaces where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan. Since OSHA has adopted a right-to-know standard and Wisconsin does not have an OSHA-approved state plan, the Employees' Right to Know Law is **not enforced** in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

O REGULATION OF INDUSTRY GENERAL PROVISIONS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Wis. Stat. § 101.10

RELATED REGULATIONS: Wis. Admin. Code Ch. SPS 343

GENERAL SUMMARY: Chapter 101 of the Wisconsin statutes includes a provision regulating the storage and handling of anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer. Under the law's rulemaking authority, the state safety department has adopted the American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia (K61.1-1999). The ANSI standards prescribe detailed specifications for the construction of ammonia storage tanks and associated components such as valves, hoses, gauges and other fittings. The standards also generally require that all personnel handling ammonia be trained in safe operating practices and appropriate emergency procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: State law explicitly prohibits the safety department from regulating workplace safety and health in agricultural and non-agricultural workplaces where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan. Since OSHA has adopted anhydrous ammonia safety standards and Wisconsin does not have an OSHA-approved state plan, the state anhydrous ammonia regulations are **not enforced** in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

TRANSPORTATION

■ MIGRANT LABOR LAW (TRANSPORTATION OF MIGRANT WORKERS)

STATUTORY CITATION: Wis. Stat. §§ 103.91(8)(f) and 103.917

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.05(8)(c)

GENERAL SUMMARY: Wisconsin's migrant labor law includes provisions related to the transportation of migrant workers by farm labor contractors and agricultural employers.

SPECIFIC TERMS AND CONDITIONS

TRANSPORTATION SAFETY — Any transportation provided by an employer to a migrant worker between the worker's places of residence must be safe and adequate. Likewise, for each vehicle used to transport individuals or property in connection with contracting activities, a migrant labor contractor is required to provide a mechanical inspection report to the state.

INSURANCE — Among other duties imposed on migrant labor contractors, every contractor or contractor's agent who owns or operates any vehicle for the transportation of persons or property in connection with contracting activities must maintain liability insurance protecting the contractor or agent against damages arising from the ownership or operation of the vehicle. The liability limits must be no less than \$100,000 for each seat in the vehicle, up to a maximum coverage of \$5,000,000. If the contractor furnishes worker transportation only as the agent of an employer, the employer is responsible for obtaining the required liability insurance.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). The Department is authorized to investigate reported or suspected violations of the migrant labor transportation provisions, and to take legal action against any contractor or employer who fails or neglects to comply.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Wis. Stat. §§ 104.001 - 104.12

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 272

GENERAL SUMMARY: Chapter 104 of the Wisconsin statutes establishes a minimum wage of \$7.25 an hour and generally requires most employers in the state to pay their employees no less than that amount for every hour on the job. Workers under the age of 20 who are in the first 90 consecutive days with their employer must receive no less than \$5.90 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE RATES — Without regard to age, agricultural workers are generally entitled to the state minimum wage of \$7.25 per hour.

ALLOWANCE FOR MEALS AND LODGING — Within the limits indicated below, agricultural employers are permitted to deduct the fair value of meals and lodging (if any) provided to their employees, but only to the extent that meals and lodging are accepted and actually received by the workers, that meals are adequate and well-balanced, and that living accommodations are decent and sanitary.

Meals — Farm employers may not deduct more than \$4.15 per meal, or \$87 per week for furnishing meals.

Lodging — The value of any lodging provided to farmworkers may not exceed \$8.30 per day or \$58 per week.

Exception — Room and board may not be deducted from the wages of a seasonal non-resident agricultural employee if the deduction would result in receipt of less than the prescribed minimum wage.

RECORDKEEPING — Like their counterparts in other industries, agricultural employers are required to make, and to retain for at least 3 years, payroll and related records on each employee. The record must include (1) the employee's name and address, (2) date of birth, (3) the start- and end-date of employment, (4) the start- and end-time of each workday and each meal period, (5) the total number of hours worked per day and per week, (6) the rate of pay and wages paid each payroll period, (7) the amount and purpose of each deduction from wages, and (8) the amount of production, if paid on other than a time basis.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such retaliation is regarded as a misdemeanor, punishable by a fine of \$25 for each offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). The Department has a duty to investigate the complaint of any worker claiming to have received less than the state minimum wage, and to enforce payment if the complaint is found to be valid. Each day that an employer employs a worker at less than the established minimum wage, the employer is subject to a civil money penalty ranging from \$10 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O GENERAL LABOR LAWS (HOURS OF LABOR AND OVERTIME)

STATUTORY CITATION: Wis. Stat. §§ 103.01 – 103.03

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 274

GENERAL SUMMARY: In manufacturing, trade and numerous other classes of establishments in Wisconsin, it is unlawful to employ any person, or permit a person to work, for a period of time deemed dangerous or prejudicial to the worker's life, health, safety or welfare. The state labor department is required to promulgate rules establishing maximum working hours, or restricting the time of day during which employees in distinct occupational or industrial classifications may be employed, to the extent necessary to protect the well-being of the workforce. For each employment classification for which hour standards are adopted, the state agency must set thresholds above which employers are obligated to compensate their employees at time-and-a-half.

PROVISIONS APPLICABLE TO AGRICULTURE: The regulations adopted by the state labor department requiring overtime pay for most Wisconsin employees in non-executive, non-administrative or non-professional positions, do not apply to employment in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

■ MIGRANT LABOR LAW (HOURS OF LABOR AND OVERTIME)

STATUTORY CITATION: Wis. Stat. §§ 103.93 - 103.935

GENERAL SUMMARY: Migrant workers in Wisconsin are covered by hour and overtime standards in the state's migrant labor law. The term "migrant worker" means any person who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to engage in seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

WORKERS EMPLOYED SOLELY IN AGRICULTURAL LABOR —

Maximum Hours — Except in an emergency, no migrant worker who performs only agricultural labor for a particular employer may be compelled by the employer to work, or be penalized for failing to work, for more than 6 days or 60 hours in any one week, or more than 12 hours in any one day.

Meal Periods — It is unlawful to employ any migrant worker for more than 6 hours straight without a meal period of at least 30 minutes' duration, unless the shift can be completed within one additional hour. Employers do not have to compensate workers for meal periods.

OTHER MIGRANT AGRICULTURAL WORKERS —

Overtime Pay on Sunday — A migrant worker who is not employed exclusively in agricultural operations for a particular employer is entitled to receive no less than $1^{1}/2$ times the worker's regular rate of pay for any hours worked on Sunday, unless the worker is allowed another day of rest in that calendar week.

Rest Periods — Each migrant worker not employed exclusively in agricultural labor must be provided a paid rest period of at least 10 minutes within each 5 hours of continuous employment.

Meal Periods — No migrant worker may be required to work for more than 6 hours straight without a paid or unpaid meal period of at least 30 minutes, unless the shift can be completed within one additional hour.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). Violations of the migrant labor law's hour and overtime standards may be reported to the Department, which must investigate each such complaint and take action to secure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

● WAGE PAYMENT, CLAIMS, AND COLLECTION LAW

STATUTORY CITATION: Wis. Stat. §§ 109.01 - 109.12

GENERAL SUMMARY: Chapter 109 of the Wisconsin statutes prescribes the timeframes under which employees in the state are entitled to receive their pay, and establishes administrative procedures for processing and collecting claims for unpaid wages.

PROVISIONS APPLICABLE TO AGRICULTURE

FREQUENCY OF PAYMENT — In contrast with the monthly pay period limit applicable to most other occupations, workers engaged in farm labor may be paid no less often than at regular quarterly intervals. A worker who is absent at the time fixed for payment, or for any other reason is not paid at that time, must be paid thereafter within 6 days of demand.

COMPENSATION AT TERMINATION — Agricultural and non-agricultural employees who do not have a written employment contract for a definite period must receive final wages in full no later than the date on which they would have received their next wages under the employer's established payroll schedule.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). The Department may receive and investigate any wage claim which is filed with the agency no later than 2 years after the date the wages were due. If a claim is found to be valid, the Department may accept assignment of the claim in trust and may sue the employer on the worker's behalf to recover the difference between the amount required by law to be paid and the amount actually received by the worker. The employer is not only liable for the unpaid wages, but subject to a penalty ranging from 50 percent to 100 percent of the amount of the claim, payable to the worker. Violation of the wage payment law is also deemed a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, any worker may exercise a right of action against an employer in civil court for the full amount of the worker's wages due on each regular payday. In addition, the court may order the employer to pay the worker increased wages ranging from 50 percent to 100 percent of the amount of the claim, depending on the duration of the employer's delay in payment.

→ MIGRANT LABOR LAW (WAGE PAYMENT)

STATUTORY CITATION: Wis. Stat. § 103.93

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.08

GENERAL SUMMARY: Wage payments to out-of-state migrant workers temporarily employed in seasonal agricultural operations in Wisconsin are subject to provisions in the state's migrant labor law.

SPECIFIC TERMS AND CONDITIONS

FREQUENCY OF PAYMENT — Every employer must pay all wages earned by a migrant worker directly to the worker, on regular paydays designated in advance by the employer, but in no case less often than semi-monthly.

MEDIUM OF PAY — Wages may not be paid in any medium other than U.S. currency, or by check or draft.

WAGES AT TERMINATION — Upon termination of the period of employment for which the worker was hired, the employer is generally required to pay all wages due any migrant worker in full within 3 days after termination.

WAGE STATEMENTS — Employers must furnish each migrant worker, at the time of payment, a written statement showing the amount of the worker's gross and net wages, and each amount deducted or withheld for whatever purpose.

DEDUCTIONS — It is illegal for an employer or migrant labor contractor to deduct or withhold from a migrant worker's wages any amount for the payment of past or anticipated debts, unless the worker has previously authorized the deduction or withholding in writing. This does not preclude wage deductions required by law or under court order.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). Complaints regarding wage payments not consistent with these provisions, or claims for unpaid wages, may be filed with the Department for investigation and prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

→ INCOME TAX LAW (WITHHOLDING)

STATUTORY CITATION: Wis. Stat. §§ 71.63 - 71.67

GENERAL SUMMARY: Each time an employee is paid, the employer is generally required to deduct and withhold from the worker's wages an amount determined in accordance with state-issued tax tables, for the purpose of meeting state income tax liability on the earnings. Withheld taxes must be forwarded by the employer to the state periodically throughout the year, and no later than January 31 of the following year the employer must provide each worker who earned wages amounting to \$600 or more, or from whom income taxes were withheld, a statement showing the employer's name, the worker's name, the total wages paid, and the total amount of taxes withheld. The employer must forward to the state a copy of the worker's statement and an annual withholding report reconciling Wisconsin taxes withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: As used above, the term "wages" does not include remuneration paid for agricultural labor. Hence, agricultural employers and farmworkers are **exempt** from the withholding provisions of the state income tax law.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compliance Bureau, Division of Income, Sales and Excise Tax, Wisconsin Department of Revenue, Madison, Wisconsin 53713 (608-266-2772).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MIGRANT LABOR LAW (GUARANTEED HOURS)

STATUTORY CITATION: Wis. Stat. §§ 103.915(4) - 103.915(7)

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.06(8)

GENERAL SUMMARY: Wisconsin's migrant labor law requires agricultural employers, labor contractors, and other entities that hire or recruit migrant agricultural workers for employment in the state, to provide the workers with a written work agreement, which, among other provisions, must contain certain assurances regarding minimum hours of work. The term "migrant worker" generally means anyone who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

GUARANTEED HOURS — Every required work agreement between an employer or contractor and a migrant worker must contain a guarantee of (1) at least 45 hours of work in each 2-week period for workers employed in agricultural field work only, or (2) at least 20 hours of work in each one-week period, or 64 hours in a 2-week period, if the worker is employed in both field and processing operations. The guarantee covers the entire interval from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

EXCEPTIONS — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available. Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to seriously adverse circumstances beyond the employer's control; within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). A migrant worker who has not received pay in accordance with guarantees shown in the work agreement should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

Wyoming

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Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page		
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Wyoming

Subject Category	Specific Regulatory Topic or Protection	Coverage Code	Popular Name or Short Title of Provision	Page
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	Income Tax Withholding			
	Other			
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CHILD LABOR

CHILD LABOR LAWS

STATUTORY CITATION: Wyo. Stat. §§ 27-6-107 - 27-6-116

GENERAL SUMMARY: Wyoming's child labor laws generally forbid employment of most minors under 14 years of age, bar employment of minors under 16 during school hours, limit the working hours of children under 16, prohibit the employment of minors under 16 in certain trades and occupations deemed hazardous, and require anyone who employs a minor under the age of 16 to obtain proof of the child's age.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The provision making 14 the minimum age for lawful employment of children in Wyoming *does not apply* to services on a farm. Children of any age may be employed in agriculture.

PROOF OF AGE — For the explicit purpose of assuring compliance with the minimum age requirement noted above, employers must document the age of each employee under the age of 16. Since there is no minimum age threshold applicable to farmwork, the requirement for proof of age in effect **does not apply** to agricultural employment.

EMPLOYMENT DURING SCHOOL HOURS — No one under the age of 16 who is enrolled in any public or private school in Wyoming may be employed or permitted to work in agriculture or any other industry during the time that the child's school is in session.

WORKING HOURS — The provision generally limiting the working hours of minors below the age of 16 to 8 hours in any 12-hour period from 5:00 a.m. to 10:00 p.m. (or to 12:00 midnight on evenings before non-school days) **does not apply** to farm employment.

HAZARDOUS OCCUPATIONS — The child labor laws prohibit the employment of anyone under 16 years of age in any work that requires contact with or exposure to dangerous chemicals, which may preclude certain agricultural field operations on crops treated with pesticides. Currently, there are no agricultural or agriculturally related activities administratively closed to minors under 16 as hazardous occupations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). Representatives of the Department are authorized to enter any place where minors are employed, to inspect personnel records, question employees, and take other steps to determine compliance with the child labor laws. Violation of these provisions is a misdemeanor, punishable by a fine of from \$25 to \$100, a jail term of from 30 to 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Wyo. Stat. §§ 21-4-101 - 21-4-107

GENERAL SUMMARY: With only narrow exceptions, every parent, guardian or other person having control or charge of any child who is a resident of Wyoming and at least 7 years of age on September 15 of any school year, but who has not reached the age of 16 or completed the 10th grade, is required to send the child to a public or private school that year for the entire time that the local public schools are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment- or agriculture-related exceptions to the school attendance requirement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance law is enforced by the boards of trustees of the state's local school districts, each of which must appoint one or more attendance officers for that specific purpose. On receipt of a report from a school official that a child of compulsory school age is unexcusedly absent, the attendance officer must give written notice of the attendance requirement to the child's parent, guardian or custodian. A second unexcused absence, if attributable to willful disregard of the attendance law, will result in a formal complaint against the child's custodian before a justice of the peace. Non-compliance under such circumstances is a misdemeanor, punishable by a fine of up to \$25, confinement in the county jail for up to 10 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

CIVIL RIGHTS

WYOMING FAIR EMPLOYMENT PRACTICES ACT OF 1965

STATUTORY CITATION: Wyo. Stat. §§ 27-9-101 - 27-9-108

GENERAL SUMMARY: The Wyoming Fair Employment Practices Act defines certain acts which constitute discriminatory and unfair employment practices, and establishes procedures for processing and resolving related complaints. The Act applies to all agricultural and non-agricultural employers (other than religious organizations) with 2 or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — In general, it is illegal for a subject employer to refuse to hire a job applicant, to discharge, promote or demote an employee, or to discriminate against an applicant or employee in matters of compensation or the terms, conditions or privileges of employment, because of age (40 and above), sex, race, creed, color, national origin, ancestry, disability, or pregnancy, when the applicant or employee is otherwise qualified to perform the job.

COMPLAINTS — Anyone claiming to have been subjected to a discriminatory or unfair employment practice may file a complaint with the state enforcement agency within 6 months of the alleged violation. If the agency determines that the complaint has merit, the employer involved may request a hearing. If the allegations of the complaint are sustained by the evidence presented at the hearing, the agency may issue an order within 14 days thereafter, requiring the respondent to cease the illegal practice and to take corrective action, which may include hiring, reinstating or upgrading the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). In investigating reported or suspected violations of the Fair Employment Practices Act, the Department is authorized to subpoena payroll and personnel records, subpoena witnesses, take sworn testimony, and hold hearings.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EQUAL PAY LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-4-301 - 27-4-304

GENERAL SUMMARY: Chapter 4, Article 3 of the state labor laws forbids an employer to discriminate between employees within the same establishment on the basis of gender, by paying wages to workers at a rate less than the rate the employer pays to workers of the opposite gender for equal work, on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions. Wage differences are not regarded as discriminatory when made pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other differential based on a factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to agricultural employers, and protects agricultural workers, to the same extent as their counterparts in other industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation is regarded as a misdemeanor and exposes the violator to the same criminal penalties noted below.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). Upon submission of a claim by a worker alleging payment of less than the wage to which he or she is entitled under these provisions, the Department must investigate and determine the validity of the charges. If the claim is substantiated, the Department may bring legal action on the worker's behalf to collect the unpaid earnings, plus an additional equal amount as liquidated damages. Willful violation of the equal pay law is also a criminal offense, carrying a possible fine of up to \$200, a prison term of up to 180 days, or both fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PRIVATE CIVIL ACTION — In lieu of enforcement by the Department, a worker may recover unpaid wages and damages and seek other relief from a violation of the equal pay provisions, by filing a civil suit against the employer directly, utilizing legal counsel of the worker's own choosing.

HEALTH AND SAFETY

WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 - 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Chs. 3 and 4

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state. Employers are generally obligated to comply with all state occupational health and safety standards applicable to their respective workplaces.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state OSHA Commission has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Wyoming's agricultural safety regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and may be enforced against any farm operation in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786). Representatives of the Department are authorized to enter and inspect any place in the state where individuals are employed, to investigate working conditions and ascertain compliance with the Occupational Health and Safety Act. When inspection or investigation discloses a violation of the Act or any of the associated administrative standards, the Department will serve notice on the employer and fix a timeframe for corrective action; the Department may also propose a civil money penalty. Certain willful and knowing violations are grounds for criminal prosecution in addition to civil liability.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

INSURANCE AND COMPENSATION

■ WYOMING EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-3-101 - 27-3-706

GENERAL SUMMARY: The Wyoming Employment Security Law establishes a state unemployment compensation fund for the purpose of financing weekly cash payments to temporarily unemployed workers who have recent earnings from insured employment and meet other eligibility criteria. The unemployment compensation fund is supported by contributions from most Wyoming employers, who are taxed in proportion to the dollar amount of their payroll. With certain exceptions, employers who have one or more employees are required to pay UI taxes.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash agricultural wages of \$20,000 or more during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for any part of a day in 20 or more calendar weeks in the current or preceding calendar year, is required to pay unemployment insurance contributions to the state. At a state-assigned contribution rate that depends on the employer's UI claims experience and other factors, a subject employer is liable for contributions on each employee's total wages over the calendar year, up to a taxable wage limit equal to 55 percent of the statewide average annual wage for UI-covered employment.

ELIGIBILITY FOR BENEFITS — A farmworker, like any other unemployed individual not otherwise disqualified, is eligible for unemployment benefits if the worker (1) registers for work and continues to report to the state employment office, (2) files a benefit claim, (3) is able to work, available for work, and actively seeking work, and (4) has, over the first four of the last five completed calendar quarters immediately prior to the initial claim, earned total insured wages equal to or exceeding 8 percent of the statewide average annual wage, and total wages of at least 1.4 times the wages earned in the one quarter of the four-quarter base period in which earnings were highest.

AMOUNT OF BENEFITS — In general, the weekly benefit amount for an eligible claimant is defined as 4 percent of the worker's high-quarter earnings in the four-quarter base period, but in no event may the weekly benefit amount be more than 55 percent of the statewide average weekly wage for UI-covered employment. The amount of the unemployment compensation payment for any given week is approximately equal to the worker's weekly benefit amount, minus that portion of any earnings from part-time employment that week which exceeds 50 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Unemployment Insurance Division, Wyoming Department of Workforce Services, Casper, Wyoming 82601 (307-235-3264). The UI Division is responsible for administering the payment of unemployment insurance benefits to eligible workers, and for enforcing the collection of UI contributions from employers who are subject to the Employment Security Law. Appeals of benefit and tax decisions are also heard and decided by this agency. Claims for unemployment compensation may be filed by calling 307-473-3789, or online at doe.state.wy.us/InetClaims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WYOMING WORKER'S COMPENSATION ACT

STATUTORY CITATION: Wyo. Stat. §§ 27-14-101 - 27-14-806

GENERAL SUMMARY: The Wyoming Worker's Compensation Act requires employers who employ individuals in certain specified extra-hazardous occupations to pay workers' compensation premiums to the state. The funds amassed as premiums are used to pay medical and hospital expenses incurred by covered employees who are injured in the course of their employment, and to pay disability or death benefits to such workers or their surviving dependents to offset lost earnings.

Employers who apply to the state for coverage and make required payment of premiums are generally relieved of all liability for the injury or death of an employee on the job, while those who fail to comply are subject to money penalties payable to the state, as well as civil action by injured employees for damages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker's Compensation Act does not apply to agricultural workers, other than those engaged in logging.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Workers' Compensation Division, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

LABOR CONTRACTORS AND WORKER RECRUITMENT

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-8-101 - 27-8-111

GENERAL SUMMARY: Chapter 8 of the Wyoming labor statutes regulates employment offices or agencies operated for the purpose of furnishing employers with workers or furnishing workers with employment, or where a fee or other consideration is charged or received for such services. The employment agency law applies without regard to occupational or industrial classification.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person, firm or corporation may open, operate or maintain an employment agency, as described in brief above, without first obtaining a license from the state to do so. The license must be posted conspicuously at the location where the agency conducts business.

BONDING — Each applicant for a license is required to secure a surety bond in the amount of \$500, conditioned on compliance with the employment agency law and related regulatory provisions.

PROHIBITED ACTS — It is illegal for a licensed agency to give any false or misleading information, or make any false promise, relating to work or employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). Anyone who has received false or misleading information from an employment agent or labor contractor, or who has evidence of a violation of the employment agency law, may file a complaint with the Department, which must investigate the charges and may revoke the agent's license if the allegations are confirmed. Likewise, it is the Department's duty to file a report of the violation with the state attorney general or the local district attorney for enforcement of the criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

PESTICIDES AND AGRICULTURAL CHEMICALS

WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973

STATUTORY CITATION: Wyo. Stat. §§ 35-7-350 – 35-7-376

RELATED REGULATIONS: Wyo. Code R. 010-0005 Ch. 28

GENERAL SUMMARY: The Wyoming Environmental Pesticide Control Act regulates the labeling, distribution, storage, transportation, disposal, use and application of pesticides. Among other provisions, the Act (1) requires the licensing of commercial pesticide application businesses, (2) requires the certification of commercial and certain private agricultural users of pesticides, (3) defines certain prohibited acts involving pesticides, and (4) confers broad rulemaking authority on the state board of certification to adopt more detailed standards for the safe use of pesticides.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is unlawful for anyone to engage in any of the following practices, among others:

- Detaching, altering, defacing or destroying any part of a pesticide product label prior to disposal of the container.
- (2) Using any registered pesticide in a manner inconsistent with its labeling.
- (3) Refusing to keep required records.
- (4) Using any restricted-use pesticide unless properly certified to do so, or unless under the direct supervision of a certified applicator.
- (5) Using restricted-use pesticides in a manner inconsistent with the applicator's license or certification classification.

LICENSING AND CERTIFICATION OF APPLICATORS — In general, farm operators and their employees are prohibited from applying restricted-use pesticides to agricultural crops unless they are certified as private applicators. Among other conditions, certification requires each applicant to demonstrate competence in the use and handling of restricted-use pesticides, by passing a training course, completing an instruction workbook, or passing a written or oral examination.

Similarly, anyone who intends to engage in the business of applying pesticides on the property of another for hire must be certified as a commercial applicator, which requires passing an examination and meeting other qualifications.

RECORDKEEPING — Commercial pesticide applicators, as well as private applicators using restricted-use pesticides, must keep a record of each application of pesticides, including the name and address of the person for whom the product was applied, the location of the application, the crop treated, the target pest involved, the name and amount of the pesticide applied, the rate of application, the date of application, and the weather conditions at the time of application.

NOTIFICATIONS — Prior to each application, certified commercial applicators applying restricted-use pesticides must inform the customer of the name of the product to be used, the potential hazards of the residue, any re-entry periods prescribed, and any waiting periods prior to harvest.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975). The Department is responsible for licensing and certification of pesticide applicators in the state, and for monitoring their compliance with the statutory and regulatory standards applicable to their operations. Representatives of the Department are authorized to enter any public or private premises at reasonable times, for the purpose of examining pesticide equipment and devices subject to the Act, inspecting lands exposed to pesticides, observing pesticide applications, and investigating complaints of injury to humans or land. If inspection or investigation yields evidence of non-compliance, the Department may bring action in court to enjoin the violation. Any such infraction is punishable as a criminal misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973 (AERIAL APPLICATION)

STATUTORY CITATION: Wyo. Stat. §§ 35-7-373

RELATED REGULATIONS: Wyo. Code R. 010-0005 Ch. 28

GENERAL SUMMARY: The Wyoming Environmental Pesticide Control Act includes a provision requiring registration of aircraft used to apply pesticides, and the regulations adopted under the Act prescribe special competencies for certification of commercial aerial applicators.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION OF AIRCRAFT — Anyone engaged in the activity or business of applying pesticides by air must register each aircraft utilized for that purpose with the state each year. The registrant must provide the state agency with (1) the name of the aircraft's manufacturer and its model and type, (2) the identification number assigned to the aircraft, (3) the name of the aircraft's owner, and (4) the name of the user of the aircraft, if different from the owner. There is a \$25 annual registration fee.

CERTIFICATION OF AERIAL APPLICATORS — In addition to the general knowledge and competencies required of all categories of pesticide applicators, applicants for aerial certification must demonstrate practical knowledge of aerial equipment calibration and maintenance, as well as methods of avoiding problems associated with pesticide application from the air, such as drift and non-target injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975). This agency is responsible for the registration of aircraft used in aerial spraying, certification of aerial applicators, and the enforcement of application standards relevant to such operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 - 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Ch. 2

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state OSHA Commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Wyoming's hazard communication regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and may be enforced against any agricultural employer in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786). Representatives of the Department are authorized to enter and inspect any place in the state where individuals are employed, to investigate working conditions and ascertain compliance with the Occupational Health and Safety Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 - 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Ch. 2

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The state OSHA Commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Wyoming's ammonia safety regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply to all agricultural operations in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGES AND HOURS

MINIMUM WAGE LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-4-201 - 27-4-204

GENERAL SUMMARY: With some exceptions, Chapter 4, Article 2 of the state labor laws requires employers in Wyoming to pay each of their employees at a rate no less than \$5.15 per hour. A special minimum wage rate of \$4.25 an hour applies to workers who are under 20 years of age, but only during their first 90 consecutive days on the job.

Subject employers are required to keep a record of the name, address and occupation of each employee, the employee's pay rate, the amount paid to the employee each pay period, and the hours worked each day and each week

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATUTORY CITATION: Wyo. Stat. §§ 27-4-101 - 27-4-105 and §§ 27-4-501 - 27-4-508

GENERAL SUMMARY: Chapter 4, Article 1 of the Wyoming labor statutes governs the payment of wages in the state, including such matters as payroll periods, paydays, wage statements, and the payment of wages at termination. Article 5, in turn, establishes a state-administered procedure for collecting claims for unpaid wages.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — The general requirement that employers pay their workers' wages no less often than semi-monthly, on prescribed paydays, *does not apply* to agricultural operations.

WAGE STATEMENTS — The provision requiring most employers to furnish their employees with an itemized statement of deductions with each payment of wages *does not apply* to agricultural operations.

WAGES AT TERMINATION — Whenever a farmworker or other employee quits the job or is dismissed by the employer, the worker's final wages must be paid no later than the next regularly scheduled payday. Wages must be paid in lawful U.S. money, or by check or draft negotiable at a bank.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). A farmworker who has not received final pay in accordance with the provisions outlined above may file a claim with the Department, provided the sum involved does not exceed \$500 or 2 months' wages, whichever is greater. The Department must investigate and determine the validity of the claim, and after opportunity for a hearing, may take legal action on the worker's behalf to collect it if investigation finds the claim valid and enforceable. Failure by an employer to pay all wages due a worker who has quit or been dismissed is also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — None.

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U.S.

→ FAIR LABOR STANDARDS ACT OF 1938

STATUTORY CITATION: 29 USC §§ 201 - 219

RELATED REGULATIONS: 29 CFR Parts 570 and 575

GENERAL SUMMARY: Apart from its provisions regulating wages and working hours, the Fair Labor Standards Act prohibits employers from employing oppressive child labor in commerce, in the production of goods for commerce, or in any enterprise engaged in commerce or the production of goods for commerce. Likewise, no producer, manufacturer or dealer may handle goods where oppressive child labor has been employed within 30 days prior to the removal of the goods.

The Act defines "oppressive child labor" somewhat generally, but within limits gives the Secretary of Labor authority to restrict the ages, hours and occupations of minors employed in businesses affecting interstate trade.

PROVISIONS APPLICABLE TO AGRICULTURE: The Fair Labor Standards Act limits the employment of minors in agriculture according to age and occupational activity, as summarized below.

AGE RESTRICTIONS — No one under the age of 16 may be employed in agriculture during school hours for the school district where the minor is living at the time, even if state law does not require the individual to attend school. Outside school hours, no one under the age of 14 may be employed in agriculture, except under the following conditions:

Children Under Age 12 — In general, minors under 12 years of age may be employed only with the written consent of their parent or person standing in the place of the parent, and only on farms where none of the employees are legally entitled to the federal minimum wage.

Exception — Children age 10 and 11 may be employed by a farm operator who is subject to the minimum wage if the operator has obtained a special child labor waiver from the U.S. Department of Labor. DOL may grant such a waiver only after determining that (1) the crop involved is characterized by a short harvest season and that exclusion of 10- and 11-year-old workers would cause severe economic disruption in the industry, (2) employment of such children would not be deleterious to their health and well-being, (3) the level and type of pesticides used would not adversely affect child workers' health, (4) workers 12 years of age or over are not available, and (5) the industry has traditionally used 10- and 11-year-olds without curtailing job opportunities for workers age 16 and above. Children age 10 and 11 employed under the special waiver may be employed on the farm involved only between June 1 and October 15 and for no more than 8 weeks in a calendar year, must commute each day between their permanent residence and the farm involved, and may only perform hand-harvest jobs customarily paid on a piece-rate basis in the region of employment.

Children Age 12 and 13 — Minors 12 and 13 years of age may be employed only with the written consent of their parent or person standing in the place of the parent, or if the job is on the same farm where such parent or person is also employed.

HOUR RESTRICTIONS — The limitations on the time of day and total working hours applicable to 14- and 15-year-olds in most non-farm occupations *do not apply* to minors employed in agriculture.

HAZARDOUS OCCUPATIONS — Certain types of farm jobs have been found and declared by the Secretary of Labor to be hazardous to minors, and thus closed to workers under the age of 16. These jobs include, among several others, (1) operating high-power tractors, (2) operating or helping to operate power-driven harvesting machines, (3) driving a bus, truck or automobile transporting passengers, (4) working from a ladder at a height over 20 feet, and (5) handling or applying agricultural chemicals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is authorized to investigate possible violations and complaints of violations, and to impose and enforce civil penalties when violations are confirmed. This agency is also responsible for issuing federal certificates of age, in response to valid applications from employers seeking to document their compliance with child labor regulations. Similarly, the Wage and Hour Division reviews waiver applications for agricultural employment of 10- and 11-year-old minors in hand harvesting of short-season crops, and for assuring that jobs offered under the waiver are not harmful to the health and well-being of child workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alabama

CHILD LABOR LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-8-32 - 25-8-61

RELATED REGULATIONS: Ala. Admin. Code, Ch. 480-3-1

GENERAL SUMMARY: The state child labor law regulates the employment of minors, by setting the general minimum working age at 14, prohibiting employment in certain hazardous occupations and workplaces, restricting the hours of work, requiring the use of child labor certificates under certain circumstances, and imposing related limitations.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for the prohibition against employment of workers under 14 in farm-related activities involving power machinery, the state child labor law **does not apply** to work in agricultural services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Child Labor Division, Alabama Department of Labor, Montgomery, Alabama 36130. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Alaska

ALASKA CHILD LABOR LAWS

STATUTORY CITATION: Alaska Stat. §§ 23.10.325 - 23.10.370

GENERAL SUMMARY: The Alaska child labor laws establish standards for the employment of minors under 18 years of age, with the aim of protecting their health, morals, education and future welfare and to prohibit abuses and unjust exploitation of child labor.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment of children in agriculture is generally governed by the same rules applicable to non-agricultural employment.

CHILDREN UNDER 14 — Persons under 14 years of age may not be employed at any time, other than in (1) domestic employment, baby-sitting and handiwork in and about private homes, and (2) newspaper delivery or sales.

CHILDREN UNDER 16 — The combined duration of school attendance and employment of a person under 16 years of age may not exceed 9 hours in one day, and, except for domestic work and baby-sitting, employment outside school hours may not exceed 23 hours in one week. Employment of persons under 16 is authorized only between the hours of 5:00 a.m. and 9:00 p.m. and only outside school hours.

CHILDREN UNDER 17 — In general, persons under the age of 17 may not be employed or allowed to work during local school hours or without a work permit.

CHILDREN UNDER 18 — Except for minors 16 to 18 years of age granted a written exemption by the state, children under the age of 18 may not be employed or allowed to work more than 6 days a week or in certain hazardous occupations.

REQUIRED REST PERIODS — A person under age 18 who is scheduled to work for 6 consecutive hours or more is entitled to a break of at least 30 minutes during the course of the work shift, and the break must occur after the first hour-and-a-half of work and before the beginning of the last hour. Similarly, a person under age 18 who works for 5 consecutive hours without a break is entitled to a break of at least 30 minutes before continuing work. Failure to provide the required break creates a minimum wage liability for the break that the employee failed to receive or received late, and a wage claim for the amount is enforceable.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA CONSTITUTION; YOUTH EMPLOYMENT LAWS

STATUTORY CITATION: Ariz. Const. Art. XVIII, § 2; Ariz. Rev. Stat. §§ 23-230 - 23-242

GENERAL SUMMARY: The state constitution contains a strict, virtually exemptionless ban on employment of individuals under the age of 14 during the hours in which the public schools are in session, and prohibits persons under age 14 from working more than 8 hours in any day. Chapter 2, Article 3 of the state labor statutes imposes additional and more complex restrictions on the employment of minors under 18.

PROVISIONS APPLICABLE TO AGRICULTURE: Both the constitutional and statutory child labor provisions implicitly apply to farm employment, and limit the use of child labor in agriculture, to the same extent as in other sectors.

WORKERS UNDER 14 YEARS OF AGE — Individuals under 14 are subject to the same child labor restrictions as workers age 14 and 15, but may not be employed at all during local school hours.

WORKERS 14 AND 15 YEARS OF AGE — Unless a variance is granted by the state, no one 14 or 15 years of age may be employed or allowed to work in any occupation determined hazardous to workers under 16, which among other occupations includes (1) activities involving work from a ladder more than 5 feet in height, (2) operating a tractor of more than 20 horsepower that is not equipped with a rollover protective structure and seatbelts, (3) operating a combine, corn picker, cotton picker or comparable power farm machinery, (4) riding on a tractor as a helper, or driving a bus, truck or automobile, and (5) handling hazardous agricultural chemicals. When school is in session, workers age 14 and 15 may not be employed more than 3 hours on any school day or more than 18 hours a week; during periods when school is not in session, they may not be employed more than 8 hours a day or 40 hours a week. Furthermore, employment of 14- and 15-year-olds is not permitted between 9:30 p.m. and 6:00 a.m. on a night just before a school day, nor between 11:00 p.m. and 6:00 a.m. on any other night.

WORKERS 16 AND 17 YEARS OF AGE — Currently, none of the highly hazardous occupations in which employment of 16- and 17-year-old workers is prohibited includes activities generally associated with crop production, and there are no limitations on hours of employment for workers in this age group.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). This agency is authorized to conduct inspections and investigations regarding the use or alleged use of illegal child labor. The Department may issue a cease and desist order in case of violation, which may include a civil money penalty of up to \$1,000 per violation. Any such order that becomes final may be enforced in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

CHILD LABOR LAWS

STATUTORY CITATION: Ark. Code §§ 11-6-101 - 11-6-116

RELATED REGULATIONS: Ark. Code R. 010.14-.05-001

GENERAL SUMMARY: The Arkansas child labor provisions contain limitations on the days, hours and occupations in which persons under the age of 18 may be employed, and prescribe penalties on employers, parents or guardians who permit minors to work in violation of those restrictions. With two notable exceptions, the child labor laws make little distinction between agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

CHILDREN UNDER 14 — In general, no one under 14 years of age may be employed or permitted to work in gainful employment at any time.

CHILDREN AGE 14 and 15 — No child age 14 or 15 may be permitted to work for more than 6 days or 48 hours in any week, nor more than 8 hours in any day. Employment of 14- and 15-year-olds is authorized only between the hours of 6:00 a.m. and 7:00 p.m. on any day preceding a school day, and between 6:00 a.m. and 9:00 p.m. before a non-school day.

CHILDREN AGE 16 and 17 — Minors 16 and 17 years of age are prohibited from working more than 6 days or 54 hours a week, or for more than 10 hours a day. On any day preceding a school day, such persons may be employed only between the hours of 6:00 a.m. and 11:00 p.m.; on nights preceding non-school days, they may generally work throughout the night, except in certain retail, food, entertainment and gambling establishments and places where alcohol is served.

EXCEPTIONS — The provisions of the state child labor laws that (1) require employers to obtain an employment certificate from the state labor department before employing any 14- or 15-year-old child, and (2) bar the employment of such children in certain hazardous occupations, do not apply to work in seasonal agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). This agency is authorized to enter and inspect workplaces where minors may be employed, and to issue complaints against employers who unlawfully utilize child labor and against parents who permit their children to engage in such employment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

WAGE, HOUR, AND CHILD LABOR LAWS

STATUTORY CITATION: Cal. Lab. Code §§ 1171-1206 and §§ 1285-1399

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11140 and 11701–11707

GENERAL SUMMARY: The state child labor laws seek to protect the well-being of minors by restricting the kinds of occupations and establishments at which they may be employed, and by limiting the hours during which such employment may occur. In general, these provisions make no distinction between agricultural and non-agricultural employment.

PROVISIONS APPLICABLE TO AGRICULTURE

PROHIBITED OCCUPATIONS —

Minors Under Age 12 — Children under the age of 12 may not be employed or permitted to work, or accompany or be permitted to accompany an employed parent or guardian, in any agricultural danger zone, defined to include areas in or about moving equipment, in or about unprotected chemicals, and in or about any unprotected water hazard.

Minors Under Age 16 — Children under 16 years of age may not be employed or permitted to work in any occupation that could endanger the worker's life, health or morals. Among the farm-related employment activities currently barred by the state enforcement agency for workers under 16 is work in close proximity to moving machinery, operating or servicing tractors and other heavy equipment, working from ladders and other structures from a height over 20 feet, working inside certain fruit and grain storage enclosures, and handling or applying certain pesticides and other agricultural chemicals.

Minors Age 16 and 17 — There are no agriculturally related occupations closed to persons 16 and 17 years of age.

PERMITS AND HOURS — Except for high-school graduates and those with an equivalent certificate, all children under 18 years of age must have a work permit, issued by the local school district, to be lawfully employed. A work permit may be issued to children age 12 and over for agricultural employment under the following conditions:

Minors Age 12 and 13 — Children 12 and 13 years old are permitted to work only on non-school days. At no time may such minors work more than 8 hours a day or 40 hours a week. Work is permitted only between the hours of 7:00 a.m. and 7:00 p.m. (until 9:00 p.m. from June 1 through Labor Day).

Minors Age 14 and 15 — While school is in session, children 14 and 15 years of age who have completed 7th grade may work up to 3 hours on a school day (outside school hours only), and up to 8 hours on a non-school day, for a maximum of 18 hours per week. When school is not in session, 14- and 15-year-olds may work up to 8 hours per day and 40 hours per week. Such children may work only between the hours of 7:00 a.m. and 7:00 p.m. (until 9:00 p.m. from June 1 through Labor Day).

Minors Age 16 and 17 — When school is in session, 16- and 17-year-olds who have completed 7th grade may work up to 4 hours a day before or after school, and up to 8 hours a day on non-school days and days preceding a non-school day, for a maximum of 48 hours per week. When school is not in session, 16- and 17-year-olds may work up to 8 hours a day and 48 hours a week. Work is limited to the hours of 5:00 a.m. to 10:00 p.m. (until 12:30 a.m. on any evening preceding a non-school day).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division is authorized to investigate alleged or suspected violations of the child labor laws, and may issue a citation to any person determined to have violated any such law or rule related to the employment of minors. A citation can lead to a civil money penalty, and violators are also subject to criminal prosecution. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – City, county and school district attendance supervisors may enter any workplace within their jurisdiction for the purpose of inspecting work permits of employed minors and to investigate child labor irregularities. Attendance officers are required to report suspected or confirmed violations to the Department of Industrial Relations within 48 hours.

Colorado

COLORADO YOUTH EMPLOYMENT OPPORTUNITY ACT OF 1971

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-12-101 - 8-12-117

GENERAL SUMMARY: The Colorado Youth Employment Opportunity Act regulates the employment of minors in the state by prescribing minimum age requirements and maximum hours of work, limiting the occupations in which youth may be employed, and imposing other limitations and restrictions.

PROVISIONS APPLICABLE TO AGRICULTURE

HOURS LIMITATIONS -

Children Under Age 12 — With few exceptions, children under the age of 12 years may not be employed in agricultural work.

Children Age 12 and 13 — Children 12 and 13 years of age may be employed in non-hazardous agricultural occupations, but only outside school hours or on non-school days. After school hours, 12- and 13-year-olds are not permitted to work more than 6 hours, unless the next day is not a school day. Similarly, no such child may work between the hours of 9:30 p.m. and 5:00 a.m., except on nights preceding non-school days. Employment for more than 40 hours a week or more than 8 hours in a 24-hour period is prohibited.

Children Age 14 and 15 — Children 14 and 15 years of age may be employed in non-hazardous agricultural occupations, but only outside school hours or on non-school days. Except before non-school days, 14- and 15-year-olds may not work more than 6 hours in any one day, nor between the hours of 9:30 p.m. and 5:00 a.m. In seasonal employment in the cultivation or harvest of perishable products where wages are paid on a piecework basis, children 14 and 15 years old may work up to 12 hours in a 24-hour period and up to 30 hours in a 72-hour period, but such individuals may not work more than 8 hours a day for more than 10 days within any 30-day period; employment of 14- and 15-year-olds in any other situations is subject to a maximum workday of 8 hours in a 24-hour period and a maximum workweek of 40 hours.

Children Age 16 and 17 — Persons 16 and 17 years of age may work in non-hazardous, piecework-paid seasonal agricultural operations for up to 12 hours in any 24-hour time span, and for up to 30 hours in any 72-hour period. Employment in other non-hazardous occupations is limited to 40 hours a week, and 8 hours in any 24-hour period.

HAZARDOUS OCCUPATIONS — Among the agriculturally related activities declared hazardous to minors and for which employment is generally forbidden to workers under the age of 18 is work from a ladder or other raised platform more than 20 feet above the ground.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). This agency may receive and investigate complaints regarding the employment of minors, and may investigate employers and inspect records to determine compliance with the Act. Violation of the child labor provisions can lead to criminal penalties against the employer, as well as the parent or guardian of the minor involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

O STATE LABOR LAWS

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-12 - 31-57w

GENERAL SUMMARY: Part I of the state labor laws contains restrictions on the employment of minors in certain specified occupations, and limits permissible hours of work of minors in certain trades and industries.

PROVISIONS APPLICABLE TO AGRICULTURE: The general child labor restrictions itemized in the state labor laws **do not apply** to employment in agricultural occupations or workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

AGRICULTURAL CHILD LABOR LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 22-13 - 22-17

GENERAL SUMMARY: Chapter 422 of the state statutes, pertaining to the Department of Agriculture, contains provisions regulating the employment of minors in agriculture.

SPECIFIC TERMS AND CONDITIONS: The following child labor restrictions apply during any calendar week to any farm operator or other agricultural employer who employs an average of more than 15 workers during that week:

AGE AND HOURS — No one under 14 years of age may be employed or permitted to work. Likewise, workers 14 and 15 years old may not be employed for more than 6 days a week, or for more than 8 hours in any day or 48 hours in any week.

PROOF OF AGE — No one under 16 may be employed or permitted to work when school is not in session unless the employer has received a birth certificate, an agricultural work permit issued by the Department of Education, or other legal proof of age.

TRANSPORTATION AND MEAL TIME — If transportation is furnished to the farm or other workplace, minor employees must have return transportation available to their home or pick-up point at the close of each workday. Minors are entitled to a meal period of not less than 30 minutes' duration.

SPECIAL NOTES OR ADVISORIES

ENFORCEMENT IN DOUBT — Although this law is still on the books, and the legislature transferred responsibility for enforcement from the state agriculture commissioner to the state labor commissioner effective January 1, 1979, the Connecticut Department of Labor does not currently enforce the Agricultural Child Labor Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department is authorized to make inspections necessary to assure compliance with these provisions. Penalties for violations, against both the employers who use unlawful child labor and the parents or guardians who permit their children to be unlawfully employed, are limited to civil fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

CHILD LABOR LAWS

STATUTORY CITATION: Del. Code Title 6, §§ 501-548

GENERAL SUMMARY: The state child labor laws prescribe minimum ages for child labor in specified occupations and industries, restrict the working hours of minors, and require the use of employment and age certificates as a condition for lawful employment of minors under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than (1) barring the employment of children in occupations declared hazardous to minors by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards), and (2) prohibiting children under the age of 14 from working in fruit and vegetable canneries, the state child labor laws do not apply to children employed in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

CHILD LABOR LAW

STATUTORY CITATION: Fla. Stat. §§ 450.001–450.165 RELATED REGULATIONS: Fla. Admin. Code R. 61L-2

GENERAL SUMMARY: The child labor law establishes minimum age standards for the employment of minors in Florida, restricts the hours during which employment of most minors is authorized, requires the provision of meal breaks for most employed minors, and prescribes additional measures for the protection of workers under the age of 18.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — As in most other occupational and industrial categories, generally no one under the age of 14 may be employed or permitted to work in agricultural activities.

PROOF OF AGE — Anyone who intends to hire or employ any worker under 18 years of age must first obtain and keep on record during the entire period of employment proof of the worker's age. The range of acceptable documentation is limited to either (1) a photocopy of the worker's birth certificate, (2) a photocopy of the worker's clicense, (3) an age certificate issued by the school board in the public school district in which the worker is employed, or (4) a photocopy of a passport or visa which shows the worker's date of birth.

HAZARDOUS OCCUPATIONS — In general, no one under the age of 16 may be employed in connection with power-driven farm machinery, and no one under the age of 18 may work in fields where pesticides or herbicides have been applied until the applicable re-entry times have expired. Farmworkers 14 and 15 years of age may drive tractors only under close supervision of the farm operator.

HOURS OF WORK -

Minors age 14 and 15 may not work before 7:00 a.m. or after 7:00 p.m. on days before school days, nor for more than 15 hours in any one week. On school days, they generally may not work more than 3 hours except when there is no school the following day. During holidays and summer vacations, 14- and 15-year-old children may work only between the hours of 7:00 a.m. and 9:00 p.m., for no more than 8 hours in any one day, and for no more than 40 hours in any one week.

Minors age 16 and 17 may not work before 6:30 a.m., after 11:00 p.m., or for more than 8 hours on any day before a school day. When school is in session, 16- and 17-year-olds are limited to working no more than 30 hours in any one week, and they are not permitted to work during school hours without a waiver or other exception. At no time may they work for more than 6 consecutive days in any one week.

MEAL PERIODS — No one 17 years old or younger may work or be allowed to work for more than 4 hours straight without a meal break of at least 30 minutes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Child Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-3131). This agency is responsible for enforcing the state's child labor statutes and regulations, and for investigating complaints of violations. Persons wishing to report an alleged violation may call 800-226-2536. Employers found to have violated the child labor provisions are subject to administrative fines of up to \$2,500 per offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Georgia

CHILD LABOR LAWS

STATUTORY CITATION: Ga. Code §§ 39-2-1 - 39-2-21

RELATED REGULATIONS: Ga. Comp. R. & Regs. § 300-7-2

GENERAL SUMMARY: The state child labor laws establish a minimum age for lawful employment in Georgia, prohibit the employment of minors in hazardous occupations, limit the permissible hours of work of minors, and require the use of employment certificates by minors seeking and holding jobs in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The provision barring employment of children under 12 years of age *does not apply* to employment of minors in agriculture. There is no lower age limit on farmwork in Georgia.

HAZARDOUS OCCUPATIONS — Individuals under age 16 may not be employed or permitted to work in any occupation declared dangerous to life and limb, or injurious to the health or morals of such minors. The state child labor regulations list 17 occupational fields that the labor commissioner has determined will *not* interfere with the schooling, health and well-being of 14-and 15-year-olds; none of the allowable occupations is agriculturally related, which appears to rule out farm employment for any worker under the age of 16.

HOURS OF WORK — Regardless of occupation, no one under the age of 16 may be permitted to work between the hours of 9:00 p.m. and 6:00 a.m., nor may such a person generally be employed during the hours when public or private schools are in session. A child under 16 may not work for more than 4 hours on any day on which the school the child attends is in session, more than 8 hours on non-school days, or more than 40 hours in any one week.

EMPLOYMENT CERTIFICATES — No minor between the ages of 12 and 16 may be employed by any person, firm or corporation unless an employment certificate attesting to the minor's age and physical capacity to work has been issued by a local public or private school official where the minor attends, or by the parent in the case of home schooling. An employment certificate is not explicitly required for the employment of a child under the age of 12 in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Georgia Department of Labor, Atlanta, Georgia 30303 (404-232-3260). The Department has authority to enter and inspect any workplace in the state to assure compliance with the child labor provisions and may take action to prosecute violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

CHILD LABOR LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 390-1 - 390-7

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 12-25-21 – 12-25-83

GENERAL SUMMARY: The state child labor law sets limitations on the occupations and hours in which minors under the age of 18 may be employed in Hawaii, authorizes the use of employment and age certificates by employers who use child labor, and prescribes penalties for violations of the child labor restrictions.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND HOUR RESTRICTIONS -

Minors Under Age 14 — In general, the only agricultural activity for which employment of a child under 14 years of age is authorized is in the harvesting of coffee. Among other restrictions, youth between the ages of 10 and 14 may work in the coffee harvest (1) only when they are not legally required to attend school or have been excused by school authorities from attending school, (2) the state enforcement agency has determined after public hearing that sufficient adult labor to perform the work is unavailable, (3) the employer obtains a valid employment certificate for each such minor employed, and (4) only when they are under the direct supervision of their parent or legal guardian. Children 10 to 14 years of age may work in the coffee harvest only between the hours of 6:00 a.m. and 6:00 p.m., and such minors are not permitted to work for more than 2 hours straight without a rest period of at least 15 minutes, nor for more than 4 hours straight without a meal period of at least one hour. Children under 14 may not work more than 6 hours on any one day or more than 30 hours in any one week, nor for more than 5 consecutive days. Minors under 12 years of age are forbidden to use most harvesting equipment or to carry loads in excess of 15 pounds.

Minors Age 14 and 15 — Children 14 and 15 years of age may be employed only during periods when they are not required by law to attend school or have been officially excused from school, and only when their employer has on file a certificate of employment for each such minor. A 14- or 15-year-old may not work more than 5 continuous hours without a lunch or rest period of at least 30 minutes, nor may such a person be allowed to work for more than 6 consecutive days, more than 40 hours in any one week (18 hours when school is in session), or more than 8 hours in any one day (3 hours on any school day). In general, employment of workers age 14 and 15 is prohibited before 7:00 a.m. and after 7:00 p.m. of any day, except during an authorized school break, when such minors may work between 6:00 a.m. and 9:00 p.m. Under certain conditions, the working hours outlined above may be extended for 15-year-olds, who may be permitted to work in the harvest of pineapples as late as 12:30 a.m. on any day and for up to 48 hours in a single workweek, but only from June 1 through the day before Labor Day.

Minors Age 16 and 17 — Provided the employer records and keeps on file the number of a valid age certificate issued to the minor, a person age 16 or 17 may be employed at any time he or she is not legally required to be in school or has been excused by school authorities from attending.

HAZARDOUS OCCUPATIONS — No one under the age of 18 may be employed or permitted to work in any occupation deemed by the state to be hazardous for minors. The following agricultural or agriculturally related occupations, among others, have been declared hazardous:

- Transporting, transferring or applying anhydrous ammonia.
- Any activity involving the use of restricted pesticides.
- (3) Operating a tractor of over 20 horsepower, or connecting or disconnecting equipment to or from such a tractor.
- (4) Operating or assisting in the operation of a corn picker, feed grinder, forklift, or other such power equipment.
- (5) Working from a ladder or scaffold from a height of over 20 feet.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). The Department is responsible for issuing employment and age certificates applicable to specific minors and specific employers when the employment is consistent with the age and occupational restrictions in the law and, in the Department's judgment, the nature of the employment will not adversely affect the health, safety or well-being of the minor or contribute to the minor's delinquency. Agents of the Department are authorized to enter any workplace in the state, inspect records and interview employees for the purpose of enforcing these provisions. The penalty for violation includes a fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

CHILD LABOR LAW

STATUTORY CITATION: Idaho Code §§ 44-1301 - 44-1308

GENERAL SUMMARY: The state child labor law limits both the occupational activities and the working hours of minors under the age of 16, and requires that employers in certain industries maintain records of the names, ages and addresses of all such workers in their employ.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND HOUR LIMITATIONS —

Children Under Age 14 — No child under the age of 14 may be employed in any business or service during the hours in which the public schools in the district in which the child resides are in session, or before the hour of 6:00 a.m. or after 9:00 p.m. Also, children under 14 may not be employed or permitted to work more than 54 hours in any one week, nor more than 9 hours in any one day. The state child labor law does not impose a minimum age for employment in agriculture.

Children Age 14 and 15 — Individuals 14 and 15 years of age are not permitted to work more than 54 hours a week or more than 9 hours a day, nor before 6:00 a.m. or after 9:00 p.m. Except for the school-related hours limitation below, there are no other restrictions on the employment of 14- and 15-year-olds in agricultural activities.

EDUCATIONAL REQUIREMENTS — No one under age 16 may be employed or allowed to work during school hours for the district where the minor resides, unless the minor (1) can read and write simple sentences in the English language, (2) has received instruction in spelling, English grammar and geography, and (3) is familiar with fundamental arithmetic operations up to and including fractions. Similar competencies in a language other than English will satisfy this requirement.

RECORDKEEPING — The recordkeeping duties with respect to the employment of minors *do not apply* to agricultural and other industries not explicitly covered by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The state child labor law is enforced by county probation officers and local school board trustees, who are authorized to visit places of employment to ascertain if any minors are being employed contrary to these provisions. Any such official, as well as any other reputable citizen, may bring a complaint regarding a child labor offense to the attention of the respective prosecuting attorney.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

CHILD LABOR LAW

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 205/1 - 205/22

RELATED REGULATIONS: Ill. Admin. Code Title 56, Part 250

GENERAL SUMMARY: The Child Labor Law establishes minimum age restrictions, limitations on hours of work, meal period requirements, and certain occupational restrictions for the lawful employment of most minors in Illinois under the age of 16. The law also prescribes the use of employment and age certificates as a means of facilitating compliance.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE -

Children Under Age 12 — With few exceptions, minors under the age of 12 years may not be legally employed in any agricultural occupation.

Children Age 12-15 — Minors 12 through 15 years of age (inclusive) may generally be employed in agriculture only outside school hours or during school vacation periods.

Children Age 16 and Over — There are no state restrictions on agricultural employment for workers 16 years of age and older.

HOURS OF WORK — Individuals 12 to 15 years of age, whose farm employment is limited to times when school is not in session as outlined above, are prohibited during such times from working for more than 6 consecutive days in any one week, more than 48 hours in any one week, or more than 8 hours in any one day. Such workers may not be employed between the hours of 7:00 p.m. and 7:00 a.m. from Labor Day until June 1, or between 9:00 p.m. and 7:00 a.m. from June 1 to Labor Day. On days when school is in session, work outside school hours is generally limited to no more than 3 hours, and the combined time in school and on the job may not exceed 8 hours.

MEAL PERIODS — No minor under 16 who is allowed to work in agriculture when school is not in session may be employed or permitted to work continuously for more than 5 hours without a meal period of at least 30 minutes, and no break of less than 30 minutes is regarded as interrupting a continuous period of work.

EMPLOYMENT CERTIFICATES — The provision generally barring the employment of a minor unless the employer obtains an employment certificate from the superintendent of schools, *does not apply* to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2804). The Department has authority to conduct investigations to enforce the Child Labor Law and is empowered to visit and inspect any workplace covered by the law at any reasonable time. The Department may file complaints against employers found to have violated any of these provisions and may assess civil money penalties of up to \$5,000 per violation, enforceable in state circuit court. Employers in violation are also subject to criminal prosecution. Questions and complaints may be directed to the Department's child labor toll-free hotline, 800-645-5784.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Truant officers and other authorized school officials may enter any place where children are or are believed to be employed and may file a complaint against any employer unlawfully employing minors.

Indiana

CHILD LABOR LAWS

STATUTORY CITATION: Ind. Code §§ 20-33-3-1 - 20-33-3-43

GENERAL SUMMARY: Indiana's child labor laws limit the employment of minors under the age of 18, by (1) generally establishing a minimum age of 14 for lawful employment in the state, (2) restricting the working hours of minors in covered occupations, (3) requiring the issuance of an employment certificate as a prerequisite for hiring a minor in most occupational categories, and (4) prohibiting child labor in hazardous occupations.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to the 14-year age threshold applicable to most other industries, children as young as 12 are permitted to engage in agricultural employment.

WORKING HOURS — As long as work is confined to non-school hours, the restrictions on the time of day and maximum hours during which youth under 17 may be employed *do not apply* to children employed in farm labor.

REST BREAKS — The provision requiring employers to provide workers under 18 with one or two rest breaks totaling at least 30 minutes during work periods of 6 hours or more *does not apply* to children engaged in farm labor.

EMPLOYMENT CERTIFICATES — Provided employment occurs only during the hours when the child is not required by law to be in school, the requirement for an employment certificate authorizing a minor to work *does not apply* to employment in farm labor.

HAZARDOUS OCCUPATIONS — No child under the age of 18 may be employed in an occupation deemed hazardous to minors by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Child Labor, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655). Authorized inspectors and agents of the Department may visit and inspect all establishments affected by these provisions. In any case where a child is found to be unlawfully employed, the Department may request the state attorney general to assist the local prosecuting attorney in the prosecution of the offending employer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The local school corporations, through guidance counselors, school social workers or attendance officers designated in writing by the respective school superintendents are responsible for issuing employment certificates for youth in the regulated age range seeking employment in an occupation for which such a certificate is required.

Iowa

CHILD LABOR LAW

STATUTORY CITATION: Iowa Code §§ 92.1 - 92.23

GENERAL SUMMARY: The state child labor law limits the occupations, time of day, and maximum hours in which the employment of minors is legally allowed, and generally prohibits employers in Iowa from hiring any minor without receiving and keeping on file a valid work permit authorizing the child's employment.

PROVISIONS APPLICABLE TO AGRICULTURE

MIGRATORY LABOR — Minors who customarily and repeatedly travel from state to state in connection with seasonal employment in agriculture are subject to the following employment restrictions:

Minimum Age — In general, no one under the age of 12 may be employed or permitted to work in migratory agricultural labor at any time, with or without pay.

Work Permits — No child between 12 and 16 years of age may be employed in migratory agricultural labor without obtaining a special work permit from the state enforcement agency. An application for a permit must be filed by the child's parent or head of the family. Every person or firm intending to hire migrant child labor must obtain the work permit of any such child prior to employment. A work permit will not be issued for a child under the age of 14 without proof of age.

 $\label{thm:condition} Time-of-Day \ Limitations — A \ valid \ work \ permit \ authorizes \ employment \ only \ between the hours of 5:00 \ a.m. \ and \ 7:30 \ p.m. \ (5:00 \ a.m. \ through \ 9:00 \ p.m. \ from \ June \ 1 \ through \ Labor \ Day), \ with \ these \ additional \ restrictions:$

Children Age 12 and 13 — May not work prior to or during regular school hours on any day when a public or private school is in session and available to the child.

Children Age 14 and 15 — May be employed at any time during the summer school session.

Maximum Hours — No one under the age of 16 may be employed for more than 8 hours in any one day or more than 40 hours in any one week. When school is in session, such minors may not work more than 4 hours a day or 28 hours a week.

Rest Periods — Persons under 16 who are employed for 5 hours or more on any day are entitled to a rest period of not less than 30 minutes at some point during the workday.

OTHER AGRICULTURAL LABOR — Except for migratory work as defined above, the child labor law *does not apply* to minors performing part-time work in agriculture, nor to minors roguing, detasseling or hand-pollinating seed or grain crops during the summer months.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, lowa Workforce Development, Des Moines, lowa 50319 (515-281-3606; toll free 800-562-4692). This agency is responsible for statewide issuance of work permits under the child labor law, and for enforcement of the restrictions against the employment of minors. Representatives of the Division are empowered to enter any establishment, question employers and employees, and inspect records for the purpose of fact-finding. The Division must report suspected infractions to local county attorneys, who are responsible for investigation and prosecution of confirmed violations. Liability for the unlawful employment of a minor extends to the parent, guardian or other person having control of the child, as well as to the employer involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

CHILD LABOR LAWS

STATUTORY CITATION: Kan. Stat. §§ 38-601 - 38-622

GENERAL SUMMARY: The state child labor laws generally forbid the employment of anyone under 14 years of age, prohibit persons under the age of 18 from working in hazardous occupations, restrict the time of day and maximum hours during which minors under 16 may be lawfully employed, and require employers to obtain a work permit authorizing the employment of anyone under 16 who is not enrolled in or attending secondary school.

PROVISIONS APPLICABLE TO AGRICULTURE: As long as employment of a child attending school does not occur during the hours in which the public schools are in session in the district where the child resides, the child labor laws in Kansas do not apply to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

○ GENERAL LABOR LAWS (WAGES, HOURS AND CONDITIONS FOR MINORS)

STATUTORY CITATION: Kan. Stat. §§ 44-639 - 44-650

RELATED REGULATIONS: Kan. Admin. Regs. §§ 50-1-1 - 50-4-2

GENERAL SUMMARY: The provisions of the state labor laws addressing the wages, hours and working conditions of learners, apprentices and minors authorize the secretary of labor to investigate wages, hours and other working conditions in any occupation, and to establish wage and hour standards applicable to the employment of minors in any such occupation where existing conditions are inadequate to supply the necessary cost of living and to maintain the health of such workers.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state labor secretary has adopted **no standards** explicitly applicable to minors employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

CHILD LABOR LAWS

STATUTORY CITATION: Ky. Rev. Stat. §§ 339.205 - 339.990

GENERAL SUMMARY: Kentucky's child labor laws regulate the employment of minors under the age of 18, by generally forbidding the use of workers under 14 years of age in most occupations in the state, restricting the time of day and maximum hours during which minors age 14 and over may work, prohibiting employment of minors in certain hazardous occupations, and requiring employers to provide minors with a lunch period under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE: The state child labor laws do not apply to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

CHILD LABOR LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:151 - 23:251

GENERAL SUMMARY: With some exceptions, Louisiana's child labor law prohibits the employment of children under the age of 14, prescribes various age thresholds below which employment in the associated trades or occupations is prohibited, requires minors to obtain an employment certificate prior to hiring, and restricts the hours during which minors may lawfully be employed. Likewise, no minor covered by the statute may be employed or permitted to work for more than 5 continuous hours without a meal period of at least 30 minutes' duration.

PROVISIONS APPLICABLE TO AGRICULTURE: The Louisiana child labor law does not apply to minors employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

CHILD LABOR LAWS

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 771 - 786

GENERAL SUMMARY: Maine's child labor laws contain age and hour criteria restricting the employment of minors under age 18 in most occupations, and prohibit most employers from hiring minors under 16 without first obtaining from each such minor a work permit authorizing employment.

PROVISIONS APPLICABLE TO AGRICULTURE

The minimum age limitations, working-hour restrictions, and work permit requirements **do not apply** to work performed in the planting, cultivation or harvesting of field crops or other farm employment that does not involve direct contact with hazardous machinery or hazardous substances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

O CHILD LABOR LAWS

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-201 – 3-216

GENERAL SUMMARY: With some exceptions, the state child labor laws (1) forbid the employment of any minor under the age of 14, (2) restrict the occupations, maximum hours and time of day in which persons under 18 may be employed, (3) define certain hazardous occupations closed to minors under the age of 18, and (4) prohibit the employment of anyone under 18 years of age unless the employer has obtained a valid work permit for the minor.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for the general condition that individuals under 18 not be employed during prescribed local school hours or in hazardous occupations, the restrictions and requirements of Maryland's child labor laws **do not** apply to farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

CHILD LABOR LAWS

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 56 - 105

GENERAL SUMMARY: The child labor laws contain limitations on the hours during which employment of minors under 18 years of age is authorized and the industries and occupations in which minors under 21 may be employed. The child labor laws also bar the employment of minors without an employment permit under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE

GENERAL FARM OPERATIONS -

Minors Under Age 14 — Children under 14 may not work in agriculture during the hours when the public schools are in session, nor before 6:30 a.m. or after 6:00 p.m. No one under the age of 14 may be employed in farmwork for more than 4 hours in any one day, or more than 24 hours in any one week, unless related by blood or marriage to the farm owner or operator.

Minors Age 14 and 15 — As in most other industries, 14- and 15-year-olds are not permitted to work in agriculture during school hours, or between the hours of 7:00 p.m. and 6:30 a.m. (between 9:00 p.m. and 6:30 a.m. from July 1 through Labor Day). Persons 14 and 15 years of age may not work more than 6 days in any one week, 48 hours in any one week, or 8 hours in any one day. Furthermore, if the work performed by any such child in a day is not continuous, but is divided into two or more periods, the employer must arrange the child's work so that all such periods of work fall within a span of 9 consecutive hours, including time spent in school. Such minors must generally obtain an employment permit from the local school superintendent, authorizing them to work for the particular employer specified in the permit.

Minors Age 16 and Over — There are generally no restrictions or limitations on the employment in agriculture of any worker 16 years of age or older.

HAZARDOUS OPERATIONS — In general, no one under 16 may be employed in ensilage cutting, on or around hazardous machinery or gearing when it is in motion, on moving motor vehicles, or in stripping, sorting or packing tobacco.

MEAL TIME — No minor (or anyone else) may be required to work for more than 6 hours during a calendar day without a break of at least 30 minutes for a meal.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Division, Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465). Representatives of the Attorney General's office are authorized to enter most workplaces in the state to investigate the employment of minors, and such officials are accorded access rights to all records pertaining to wages, hours and other conditions of employment which are deemed essential to such investigations. Both the employer of any child found to have been employed in violation of the child labor laws, and any parent or guardian who permits a child under his or her control to be so employed, are subject to a criminal fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Public school superintendents, or officers authorized by local school committees, are responsible for issuing employment permits to eligible minors within their jurisdiction. Likewise, attendance supervisors employed by local school committees are authorized to visit places where minors may be employed and must report to the Attorney General's office any case of illegal child labor that they encounter in the performance of their duties.

Michigan

YOUTH EMPLOYMENT STANDARDS ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 409.101 - 409.124

RELATED REGULATIONS: Mich. Admin. Code R. 408.6199 - 408.6309

GENERAL SUMMARY: The Youth Employment Standards Act regulates the employment of workers under the age of 18 in Michigan, by establishing minimum age, maximum hours, and other criteria applicable to most industries and occupations in the state.

MINIMUM AGE — Subject to certain exceptions, the minimum age for employment of minors is 14 years.

HOURS LIMITATIONS —

Minors Under Age 16 — A minor under 16 years of age may not be employed in an occupation subject to the Act for more than 6 days in one week, for a period longer than a weekly average of 8 hours per day or 48 hours in one week, or for more than 10 hours in one day. Youth under 16 are not permitted to be employed between the hours of 9:00 p.m. and 7:00 a.m. During the period when school is in session, a minor who is a student in school may not be employed for more than a combined school and work week of 48 hours.

Minors 16 and Over — No one may employ a minor 16 years of age or older in an occupation subject to the Act for more than 6 days in one week, for more than an average of 8 hours per day in one week, for more than 10 hours in one day, or for more than 48 hours in one week; when school is in session, a minor who is a student in school may not be employed for more than 24 hours in one week. Employment of minors 16 years of age or older is generally prohibited between the hours of 10:30 p.m. and 6:00 a.m., but 16-and 17-year-old students may work until 11:30 p.m. on Fridays and Saturdays, during school vacation periods, and during periods when they are not regularly enrolled in school.

WORK PERMITS — A minor may not be employed in an occupation regulated by the Act unless the minor (1) has obtained a permit from the school district in which the minor's place of employment is located, or from the public school academy or non-public school nearest the place of employment, and (2) provides a copy of the permit to the prospective employer, who must keep it on file at the place of employment throughout the duration of employment.

MEAL AND REST PERIODS — A minor may not be employed for more than 5 hours continuously without an interval of at least 30 minutes for a meal and rest period. An interval of less than 30 minutes is not considered to interrupt a continuous period of work.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EXEMPTION — As long as employment takes place outside school hours and is not in violation of regulatory standards adopted by the superintendent of public instruction, the Youth Employment Standards Act *does not apply* to farmwork. Currently, the only agriculturally related activities identified in the superintendent's administrative rules as hazardous, and thus generally closed to minors under the age of 18, are work involving hazardous substances (which may include pesticides), operation of high-power tractors, and work requiring the use of ladders.

EXCEPTIONS TO THE AGRICULTURAL EXEMPTION — The Act imposes restrictions on the employment of minors in detasseling, roguing, hoeing, and any similar farming operations involved in the production of seed.

Days and Hours of Employment — With parental consent and only outside school hours (or when not enrolled in school), minors 16 years of age or older may be employed in these operations for up to 11 hours in one day and up to 62 hours in any one week. An employer may not require work in excess of 48 hours a week without the minor's consent. Work cannot take place between 2:00 a.m. and 5:30 a.m.

Without parental consent, 16- and 17-year-olds may work in these operations only outside school hours (or when not enrolled in school), for up to 6 days in one week, no more than an average of 8 hours per day in one week, no more than 10 hours in one day per week, and no more than 48 hours per week when school is out for 7 consecutive days or more. Work cannot take place between 11:30 p.m. and 6:00 a.m.

Work Permits — As long as the employment occurs during school vacation periods, or when the worker is not regularly enrolled in school, minors 13 years of age and older may work in such operations without first obtaining a work permit.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Career and Technical Education, Michigan Department of Education, Lansing, Michigan 48909 (517-335-6041).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

CHILD LABOR STANDARDS ACT

STATUTORY CITATION: Minn. Stat. §§ 181A.01 – 181A.12

RELATED REGULATIONS: Minn. Admin. R. 5200.0900 - 5200.0970

GENERAL SUMMARY: With few exceptions, the Child Labor Standards Act establishes a minimum lawful employment age of 14, prescribes maximum hours and time-of-day restrictions for the employment of minors, and bans the employment of anyone under the age of 18 in certain hazardous occupations.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to the minimum age limit in other occupations, children as young as 12 years of age may be employed in agricultural operations, with the permission of their parents or guardian and subject to the limitations outlined below.

HOURS AND TIME-OF-DAY -

School Days — In general, no minor under the age of 16 may be employed in any occupation on school days during school hours.

Time-of-Day — Regardless of occupation, persons under 16 are not permitted to work before 7:00 a.m. or after 9:00 p.m.

Maximum Hours — The general rule against employing children under 16 for more than 40 hours a week, or more than 8 hours in any 24-hour period, *does not apply* to minors employed in agricultural activities with the permission of their parents or guardian.

HAZARDOUS OCCUPATIONS — No one under the age of 18 is allowed to work in any occupation determined by the state labor commissioner to be hazardous to minors. Among other prohibited activities often associated with farmwork which are closed to persons under 18 are work where chemicals are present in harmful or toxic quantities and operating power-driven machinery. The child labor regulations also forbid the employment of anyone under 16 in the operation of a farm tractor, as a motor vehicle driver, or in an agricultural operation declared hazardous by the U.S. Secretary of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). Authorized representatives of the Division may enter and inspect any place of employment in the state, interview employees, and inspect age and employment certificates, for the purpose of checking compliance with the state child labor laws. To correct a violation, the Division may issue an order requiring compliance, enforceable in the state courts, and may also impose administrative fines ranging from \$250 to \$5,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – To the same extent as representatives of the Department of Labor and Industry and for the same purposes, attendance officers or comparable local school district officials are authorized by the Act to visit workplaces, talk with employees, and inspect age and employment certificates.

Mississippi

CHILD LABOR LAWS

STATUTORY CITATION: Miss. Code §§ 71-1-17 - 71-1-31

GENERAL SUMMARY: With respect to any mill, cannery, workshop, factory or manufacturing establishment, the state child labor laws generally prohibit the employment of any child under 14 years of age at any time, and forbid the employment of any 14- or 15-year-old for more than 8 hours a day, more than 44 hours a week, or between the hours of 7:00 p.m. and 6:00 a.m.

PROVISIONS APPLICABLE TO AGRICULTURE: The child labor laws do not apply to employment on a farm or to any other workplace not explicitly cited above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - These provisions are enforced by county sheriffs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Missouri

CHILD LABOR LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 294.005 - 294.150

GENERAL SUMMARY: The child labor law sets age standards for the lawful employment of minors, restricts the time of day and maximum hours in which employment of minors is permitted, prohibits child labor in occupations regarded as hazardous, and requires issuance of a work certificate as a precondition to a child's employment under certain circumstances. These provisions make no substantive distinction between agricultural and non-agricultural occupations.

SPECIFIC TERMS AND CONDITIONS

MINIMUM AGE — With few exceptions, no child under 14 years of age may be employed or permitted to work at any time.

HOURS OF WORK — A child under the age of 16 may not be employed in any gainful occupation for more than 3 hours on a school day, 8 hours on a non-school day, or more than 6 days or 40 hours in any week. The employment of minors under 16 is forbidden before 7:00 a.m. and after 7:00 p.m. (or after 9:00 p.m. from June 1 through Labor Day).

HAZARDOUS OCCUPATIONS — No child under age 16 may be employed in an occupation regarded as hazardous, including, among others, work in connection with power-driven machinery and in the operation of a truck or motor vehicle.

WORK CERTIFICATES — With few exceptions, employers are prohibited from employing any person under 16 years of age during the regular school term, unless the child has been issued a work certificate by the school superintendent of the district in which the child resides. Work by such minors is permitted only during non-school hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403). Representatives of the Department are authorized to enter any place where children are employed and inspect work certificates and employment conditions in order to determine compliance with these provisions. A violation of the child labor law is classed as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

STATUTORY CITATION: Mont. Code §§ 41-2-102 - 41-2-120

GENERAL SUMMARY: The Child Labor Standards Act generally prohibits the employment of minors under 14 years of age, limits the days and hours during which 14- and 15-year-old workers may be employed, and bans the employment of certain minors in occupations deemed hazardous.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to work in most other occupations, children under the age of 14 may be employed in non-hazardous agricultural jobs if they have the written consent of their parent or guardian and the parent or guardian is working on the same farm or ranch.

WORKING HOURS — Unless they have written consent from their parent or guardian, children under the age of 16 are prohibited from working:

- During school hours.
- (2) Before 7:00 a.m. or after 7:00 p.m. (after 9:00 p.m. from June 1 through Labor Day).
- (3) More than 3 hours on a school day or 18 hours in a school week.
- (4) More than 8 hours on a non-school day or 40 hours in a non-school week.

HAZARDOUS AGRICULTURAL OCCUPATIONS — Among other ag-related jobs declared off-limits, with few exceptions children under the age of 16 are prohibited from:

- Working inside certain silos and fruit or grain storage structures.
- Handling or using poisonous agricultural chemicals.
- (3) Transporting, transferring or applying anhydrous ammonia.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600). Representatives of the Department are authorized to enter and inspect any establishment subject to the Child Labor Standards Act, and to access employment records related to enforcement. The Department may file a complaint against an employer for a confirmed violation, which can be prosecuted as a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

CHILD LABOR LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-301 - 48-313

GENERAL SUMMARY: The state child labor law requires most employers in Nebraska to obtain an employment certificate as a prerequisite to hiring any minor under 16 years of age, limits the working hours of persons under 16, and forbids the employment of anyone under 16 in any job that is dangerous to the child's life, health or morals.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT CERTIFICATES — In general, no minor under the age of 16 may be employed or permitted to work unless the employer first obtains from the minor and keeps on file an employment certificate issued by the local school district. Except in connection with a state-approved vocational education program, an employment certificate may not be issued to anyone under 14.

WORKING HOURS — Minors under 16 years of age are not permitted to work for more than 8 hours in any one day or more than 48 hours in any one week, nor generally before the hour of 6:00 a.m. or after 10:00 p.m.

HAZARDOUS OCCUPATIONS — Minors under 16 may not be employed in work that is dangerous to life, safety or health. Whether or not a particular activity is hazardous is judged by the enforcement agency case-by-case.

EXCEPTIONS FOR WEEDING, ROGUING OR DETASSELING CORN OR OTHER SEED PRODUCTS — Minors under 16 and as young as 12 years old may be employed in these crop operations without the need of an employment certificate, provided (1) the employment occurs outside school hours during June, July or August, (2) the child's legal residence is within 75 miles of the workplace, and (3) the employer obtains written consent from the child's parent or guardian.

Children 12 through 15 years of age may be employed in this type of work only up to 48 hours in any one week, only up to 9 hours in any one day, and only between the hours of 6:00 a.m. and 8:00 p.m. (10:00 p.m. in the case of 14- and 15-year-olds).

Any employer who employs a child under 16 years of age in weeding, roguing or detasseling corn or other seed products is required to provide at least 2 supervisors who are 18 years of age or older at each such work location. The supervisors must be capable of assisting with issues of health, safety and wages. Likewise, the employer must provide the parents of each such child worker with an information sheet defining the terms of employment, including the availability of water and sanitation facilities on the job and the wages to be paid. The sheet must also include contact information for the state labor department for wage-complaint purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). Representatives of the Department are authorized to inspect documentary evidence of the age and employability of any minor employed at any workplace in the state, in order to ascertain compliance with the child labor laws. Violations are treated as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

CHILD LABOR LAWS

STATUTORY CITATION: Nev. Rev. Stat. §§ 609.185 - 609.652

RELATED REGULATIONS: Nev. Admin. Code § 609.150

GENERAL SUMMARY: The Nevada child labor laws (1) forbid the employment of most children under the age of 14 without the written permission of a district judge, (2) prescribe maximum hours of employment for workers under the age of 16, (3) limit the employment of most workers under 14 to non-school hours, and (4) prohibit employment of minors under 16 in hazardous occupations, industries and establishments.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The general ban on employment of children under 14 years of age without the written consent of a district court judge *does not apply* to employment connected with farmwork.

MAXIMUM HOURS OF LABOR — The provision generally limiting employment of workers under 16 to 48 hours in any one week and 8 hours in any one day *does not apply* to work on a farm.

EMPLOYMENT DURING SCHOOL HOURS — In general, it is illegal for any person, firm or corporation to employ a child under 14 in any occupation other than as a motion picture performer during the hours in which the public schools of the school district where the child resides are in session.

HAZARDOUS EMPLOYMENT — Children under the age of 16 are barred from working in jobs identified in the statute or declared by the state labor commissioner to be hazardous. The only activity currently classified as hazardous that is commonly performed in agricultural establishments is the operation of certain mechanical equipment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). The Commissioner is charged with the enforcement of all labor laws in the state, including the child labor provisions. Representatives of the Commissioner may enter any place of employment in Nevada to inspect age documentation and question employees reported to be or suspected of being employed in violation of the child labor laws. Employers who employ children contrary to these provisions, and parents or guardians who permit children in their custody to be unlawfully employed, are guilty of a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Local school attendance officers, as well as representatives of the state superintendent of public instruction, are authorized to demand proof of age of any worker apparently under the age of 14 who is employed or permitted to work during local school hours. After formal notification of a violation, for each day in which school-hour employment of a child under 14 continues, the employer is subject to a fine of from \$5 to \$20.

New Hampshire

YOUTH EMPLOYMENT LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 276-A:1 - 276-A:26

RELATED REGULATIONS: N.H. Code Admin. R. Lab. 1000

GENERAL SUMMARY: The Youth Employment Law establishes a minimum lawful employment age of 12 in New Hampshire, restricts the total hours and time of day during which minors may be employed, limits employment in certain hazardous occupations, and requires issuance of a youth employment certificate as a precondition on hiring minors in most industries.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — Except in employment that is brief or intermittent, or that produces little or sporadic income, generally no one under 12 years of age may be employed or permitted to work in any occupation, including agriculture.

HOUR RESTRICTIONS — As a rule, no one under the age of 16 may work earlier than 7:00 a.m. or later than 9:00 p.m., or for more than 3 hours a day on a school day, 8 hours on a non-school day, 23 hours a week during school weeks, and 48 hours a week during vacations. Likewise, 16- and 17-year-olds who are enrolled in school may not work for more than 6 consecutive days or more than 30 hours during a school week, nor for more than 6 consecutive days or 48 hours in any one week during school vacation periods.

Agriculture Exception — In response to a written application from an agricultural employer seeking a variance for a particular youth working in a specified agricultural operation, the hour restrictions may be suspended by the state enforcement agency.

HAZARDOUS OCCUPATIONS — With few exceptions, it is unlawful to employ a person under 16 in logging operations, or to employ anyone under 18 in an occupation determined by the state agency to be hazardous. The agency has adopted the hazardous occupation standards established by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

EMPLOYMENT CERTIFICATES — The general ban on employment of minors under 18 without a youth employment certificate issued by the local school district *does not apply* to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). Investigators from the Department are directed to visit and inspect all workplaces in the state to assure compliance with the youth employment statute, and are authorized to serve warrants. Anyone who employs a minor in violation of these provisions, and any parent, grandparent or guardian who allows a child in his or her custody to work unlawfully, is guilty of a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Truant officers employed by the local school districts exercise the same authority to enter and inspect places of employment as does the Department of Labor in enforcing the Youth Employment Law.

New Jersey

CHILD LABOR LAWS

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:2-21.1 - 34:2-21.64

RELATED REGULATIONS: N.J. Admin. Code 12:58

GENERAL SUMMARY: With some exceptions, the New Jersey child labor laws (1) set a minimum age of 14 for lawful employment in the state, (2) restrict the working hours of minors under 18, (3) prohibit child labor in specified hazardous occupations, (4) prescribe the issuance of an employment certificate as a precondition on youth employment, (5) impose recordkeeping duties on employers of children, and (6) provide certain other employment protections to minors in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast to the 14-year age threshold for employment in most other industries, children as young as 12 may be employed in agricultural pursuits, subject to the limitations described below.

WORKING HOURS — No one under the age of 18 years may be employed or permitted to work in agriculture for more than 10 hours in any one day, or for more than 6 days or 60 hours in any one week. On any school day, the combined time in school and on the job may not exceed 8 hours. There are no time-of-day restrictions on minors employed in agriculture.

HAZARDOUS OCCUPATIONS — In both agricultural and non-agricultural sectors, minors under 16 are forbidden to work in, about or in connection with power-driven machinery, or injurious quantities of toxic or noxious dusts or fumes (which may include certain agricultural chemicals). In addition, the use of power field choppers, power hay balers or mechanical corn pickers has been declared hazardous to minors under the age of 18 by the state labor commissioner.

LUNCH PERIODS — No minor under 18 may be employed or allowed to work in any occupation for more than 5 continuous hours without an interval of at least 30 minutes for lunch. No break of less than 30 minutes is deemed to interrupt a continuous period of work.

EMPLOYMENT PERMITS — While employers in most other industries are barred from hiring anyone under the age of 18 without an employment certificate, a special agricultural employment permit is a prerequisite for farmwork only by workers under 16. A special permit authorizing agricultural employment by such a child may be issued by the local school district upon application by the child's parent or other custodian, and a finding by school officials that the work will not interfere with the child's health or standing in school. The application must show the exact character of the work and the hours, wages and special conditions under which the work will be performed.

EMPLOYER RECORDKEEPING — The requirement that most employers keep a record of the name, address, birth date, hours worked, wages paid and other information on each employed minor under the age of 19 *does not apply* to the employment of minors in agriculture.

POSTING — The statutory provision that generally obligates employers of minors to conspicuously post a summary of the child labor laws, a list of occupations prohibited to minors, a schedule of working hours and meal periods, and a list of each minor employed at the establishment, *does not apply* to agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305). Inspectors and other authorized representatives of the Department may enter any workplace at any time to examine employment and age certificates, question workers, and conduct other enforcement-related activities under the state child labor laws. The Department is empowered to file and prosecute criminal complaints against any employer who employs a minor in violation of the child labor laws, and against any person who permits a minor in his or her control or custody to work in violation of those provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – School attendance officers and comparably authorized local officials may exercise the same inspection authority as agents of the Department of Labor in carrying out the child labor laws.

New Mexico

CHILD LABOR ACT

STATUTORY CITATION: N.M. Stat. §§ 50-6-1 - 50-6-19

GENERAL SUMMARY: New Mexico's Child Labor Act generally prohibits the employment of children under the age of 14, requires a work permit for the lawful employment of 14- and 15-year-olds, limits the working hours and occupations of such minors, and enumerates certain injurious employment activities closed to minors under 18. These provisions generally make no distinction between agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

CHILDREN UNDER 14 — With few exceptions, no child under the age of 14 may be employed or permitted to work in any gainful occupation.

CHILDREN AGE 14 and 15 -

Work Permit — No employer may hire a 14- or 15-year-old unless the child presents a valid work permit issued by the state labor department. The employer is required to keep the permit on file and post conspicuously a list of all children employed at that location.

Hours and Time Restrictions — Except for participants in work experience and career exploration programs, 14- and 15-year-olds are prohibited from working during school hours and may not work for more than 3 hours per day on a school day, nor for more than 18 hours during a school week. When school is not in session, work is limited to 8 hours in any one day and 40 hours during any one week. Employment is permitted only between the hours of 7:00 a.m. and 7:00 p.m. during the school year, and between 7:00 a.m. and 9:00 p.m. outside the school year.

PROHIBITED OCCUPATIONS — Minors may not be employed in certain occupations listed in the statute and regarded as hazardous or injurious to the health or morals of children. The only prohibited activities generally identifiable with agriculture are operations involving belted moving machinery, employment in which is not authorized for anyone under 16.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Relations Division, New Mexico Department of Workforce Solutions, Santa Fe, New Mexico 87505 (505-827-6817). Representatives of the Division are authorized to inspect work permits and other personnel records on any premises where minors are employed. The presence of a child at a workplace where there is no permit authorizing the child's employment is deemed prima facie evidence that the child is unlawfully employed. Anyone who employs a minor in violation of the Child Labor Act, and anyone who has control of a minor and permits the child to be so employed, may be reported by the Division to the local district attorney for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

CHILD LABOR LAW

STATUTORY CITATION: N.Y. Labor Law §§ 130 - 145

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, § 190-9.2

GENERAL SUMMARY: The New York child labor law establishes a minimum age of 14 for most employment in the state, limits the types of work and the working hours of minors in discrete age groups below 18, and specifies certain trades and occupations that are deemed especially hazardous and therefore prohibited for most minors.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — An exception to the general ban on employment of children under 14 is made for the hand harvest of berries, fruits and vegetables, work in which 12- and 13-year-old youth may engage for up to 4 hours a day, between the hours of 9:00 a.m. and 4:00 p.m. (between 7:00 a.m. and 7:00 p.m. between June 21 and Labor Day), and at times when school is not in session. To be lawfully employed, however, each such minor (1) must have a farm work permit issued by the local school district, and (2) must be accompanied on the job by a parent, or present the employer with the written consent of the parent or guardian.

CHILDREN AGE 14 and 15 — On those days and during those hours when school attendance is not required, a minor 14 or 15 years of age may be employed in an agricultural job only if the child has a farm work permit issued by the school district and signed by the employer. The maximum hours and time-of-day restrictions generally applicable to this age category *do not apply* to farm labor.

CHILDREN AGE 16 and 17 — As long as school attendance is not required, minors 16 and 17 years of age may be employed without a work permit in agricultural occupations on a farm. The hours limitations otherwise applicable to 16-year-olds during school sessions do not apply to farm labor.

HAZARDOUS OCCUPATIONS — Among the farm-related occupations identified in the statute as hazardous and thus prohibited to minors of any age are (1) adjusting belt-driven machinery, and (2) work as a helper on a motor vehicle. Although the state labor commissioner is authorized to investigate particular agricultural activities that may be dangerous to minors or injurious to their health, no regulations prohibiting or limiting employment of minors in any such occupations have been adopted.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Through the agency's district offices, compliance officers of the Department may examine employment certificates and work permits of minors found employed in any workplace or on any job in the state. If anyone apparently under 18 years old is employed without authorization or otherwise contrary to the child labor laws, the Department may require the employer to cease employing the minor or file evidence within 10 days that the minor is employable. An employer who violates any of these provisions may be assessed a civil penalty of up to \$1,000 for a first violation, up to \$2,000 for a second violation, and up to \$3,000 for a third or subsequent violation. For violations that involve a minor who is seriously injured or dies, the penalty is triple the maximum otherwise allowable under these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

○ WAGE AND HOUR ACT (YOUTH EMPLOYMENT)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 - 95-25.25

GENERAL SUMMARY: The youth employment provisions of the Wage and Hour Act establish 14 as the minimum lawful age of employment in most trades and occupations in North Carolina, restrict the working hours of 14- and 15-year-olds in the state, require that rest breaks be provided at least every 5 hours for workers under 16, bar employment of most minors under 18 without a youth employment certificate, and forbid the employment of minors in occupations deemed hazardous or detrimental to the health and well-being of youth.

PROVISIONS APPLICABLE TO AGRICULTURE: The youth employment provisions do not apply to persons employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

CHILD LABOR LAWS

STATUTORY CITATION: N.D. Cent. Code §§ 34-07-01 - 34-07-21

GENERAL SUMMARY: The child labor laws of North Dakota generally prohibit the employment of anyone under the age of 14, restrict the occupations open to minors under the age of 16, limit the working hours of such minors in most occupations, and require most employers to keep on file an employment certificate for every such minor in their employ.

PROVISIONS APPLICABLE TO AGRICULTURE

CHILDREN UNDER AGE 14 — No person, firm or corporation may employ a child under 14 years of age in any occupation during the hours when the public schools of the district in which the child resides are in session.

Outside local school hours, children under 14 may work in agricultural operations exempt from the maximum hours and time-of-day restrictions applicable to minors under 16 in most other occupations.

CHILDREN AGE 14 AND 15 — The need for an employment certificate and the maximum hour and time-of-day limitations applicable to most other 14- and 15-year-olds **do not apply** to 14- and 15-year-olds employed in agriculture.

HAZARDOUS OCCUPATIONS — The broad prohibition against the employment of minors under 16 in any activity statutorily declared or administratively determined to be hazardous or otherwise detrimental to the life, health or morals of such individuals, generally *does not apply* to children doing ordinary farmwork or operating farm machinery.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Local law enforcement officers may enter any workplace in their jurisdiction, inspect employment certificates, and otherwise investigate compliance with these provisions.

Ohio

CHILD LABOR LAWS

STATUTORY CITATION: Ohio Rev. Code §§ 4109.01 - 4109.99

RELATED REGULATIONS: Ohio Admin. Code 4101:9-2-03

GENERAL SUMMARY: Ohio's child labor laws require minors to present an age and schooling certificate to employers as a prerequisite to employement under certain circumstances, prohibit employers from hiring anyone under the age of 18 in occupations which are deemed hazardous or detrimental to their health and well-being, limit the working hours of children under 16 years of age, and impose certain administrative duties and restrictions on employers of child labor.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND SCHOOLING CERTIFICATES — Farm operators and other agricultural establishments are generally prohibited from hiring anyone under the age of 18 who resides in an agricultural labor camp, as defined in the agricultural labor camp law (see entry, Ohio — Housing — Farm Labor Housing Standards), unless the child presents to the employer a valid age and schooling certificate obtained from the superintendent of the local school district. Such a certificate may not be issued to a child under the age of 14.

An age and schooling certificate is *not required* for agricultural employment by minors who do not reside in an agricultural labor camp.

HAZARDOUS EMPLOYMENT — Among other agriculturally related activities determined by the state industrial relations director to be a threat to the health and well-being of such minors, generally no one under 16 may be employed (1) in connection with the operation of a tractor of more than 20 horsepower, (2) in connection with the operation of a corn picker, cotton harvester, combine or any similar equipment, (3) in any job requiring work from a ladder or scaffold at a height of more than 20 feet, (4) as a driver of a truck, bus or car carrying passengers, or (5) in a job requiring the handling or application of certain agricultural chemicals or the application or transfer of anhydrous ammonia.

WORKING HOURS — With only narrow exceptions, it is illegal to employ a child under 16 during school hours. Such minors are generally authorized to work only between the hours of 7:00 a.m. and 7:00 p.m. (between 7:00 a.m. and 9:00 p.m. from June 1 to September 1, and during school holidays lasting 5 days or more). No one under 16 may be employed for more than 3 hours a day on any school day, for more than 18 hours a week in any week in which school is in session, for more than 8 hours on any non-school day, or for more than 40 hours in any week in which school is not in session.

REST PERIODS — Employers may not employ any worker under 18 for more than 5 consecutive hours without allowing the worker a paid or unpaid rest period of at least 30 minutes.

CONDITIONS OF COMPENSATION — Prior to hiring a minor in any occupation, the employer must reach agreement with the worker concerning the wages to be paid, whether on a time or piecework basis. The employer must furnish the worker with written evidence of the agreement, and on or before each payday must provide a statement of earnings due and the amount to be paid. No reduction in the agreed-upon wage rate is permitted without at least 24 hours' advance notice and completion of a new written agreement.

WITHHOLDING OF WAGES — No employer may retain or withhold any part of a minor's earnings because of presumed negligence on the worker's part, failure to comply with rules, breakage of equipment, or alleged inability to perform the job.

RECORDKEEPING — With respect to each agricultural employee under 18 who resides in an agricultural labor camp, a farm operator or other agricultural establishment is required to keep a time book or other written record showing the worker's name, address and occupation, the number of hours worked on each day of the week, the start and end time of each work interval and rest period, and the amount of wages paid each pay period.

The recordkeeping requirements do not apply to the employment of minors who do not reside in an agricultural labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). Representatives of the Department are authorized to enter places of employment where minors are at work, to examine age and schooling certificates, question workers and perform other investigative functions related to enforcement of the child labor laws. Upon discovery of a violation and after notice to the employer, the Department is obligated to file a complaint in the appropriate court. Whoever violates the child labor laws is guilty of a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state superintendent of public instruction, the state director of health, the local school districts and local health departments all have inspection and complaint-filing authority comparable to that exercised by the Department of Commerce.

Oklahoma

CHILD LABOR LAWS

STATUTORY CITATION: Okla. Stat. Title 40, §§ 71 - 88

GENERAL SUMMARY: Oklahoma's child labor provisions regulate the employment of minors under the age of 16, by restricting the occupations open to such workers, limiting their working hours, imposing certain educational qualifications as a condition on employment, and requiring the use of age and schooling certificates under certain circumstances.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than a prohibition against employment in occupations declared hazardous by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards), Oklahoma's child labor laws do not apply to minors performing work in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Child Labor Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Oregon

CHILD LABOR LAWS

STATUTORY CITATION: Or. Rev. Stat. §§ 653.305 - 653.545

RELATED REGULATIONS: Or. Admin. R. 839-021-006 - 839-021-0500

GENERAL SUMMARY: The Oregon child labor laws (1) generally prohibit the employment of children under the age of 14 when school is in session and under the age of 12 during vacation periods, (2) limit the working hours of minors under 16 years of age, (3) prohibit employment of minors in certain hazardous occupations, (4) require issuance of an employment certificate as a prerequisite to hiring minors under 18 in certain establishments, and (5) entitle young workers to meal and rest periods.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE RESTRICTIONS -

Children Age 9 to 11 — In general, a child who is under 12 years of age but no younger than 9 may be employed in agriculture only to pick berries or beans, only outside school hours, and only if (1) the child is employed with the consent of his or her parent or guardian, (2) the child is paid at the same rate as workers age 12 and over performing the same work for the same employer, (3) the crop involved is sold only within Oregon and not transported out of the state in any form, and (4) the state enforcement agency has certified that there are not sufficient workers in the immediate area to harvest the crop without using 9- to 11-year-old pickers.

Children Age 12 and 13 — Most forms of agricultural employment are open to minors 12 and 13 years of age, but only outside the term during which the public schools where the child resides are in session.

Children Age 14 and Over — Subject to the maximum hours and hazardous work limitations cited below, and as long as work occurs only outside local school hours, children 14 years of age and older may work in agriculture with no other state restrictions.

MAXIMUM HOURS —

During the School Year — No child under the age of 16 may be employed in agriculture for longer than 3 hours a day on school days, 10 hours a day on non-school days, or 25 hours a week during school weeks.

Outside the School Year — From the last day of the most recently completed local school year until the first day of the next local school year, no one under the age of 16 may work more than 10 hours a day, or more than 60 hours or 6 days in any week.

Exceptions for Work with Power-Driven Machinery — When a worker under age 16 is employed to operate or assist in operation of power-driven farm machinery, or to ride in or on such machinery, maximum hours during the school year are 3 hours a day on school days, 8 hours a day on non-school days, and 18 hours a week during school weeks; between school years (during "summer vacation" periods), employment time generally may not exceed 10 hours a day and 60 hours a week during the harvest season, and 10 hours a day and 44 hours a week outside the harvest season. Minors 16 and 17 years old working in or on power-driven farm machinery are generally limited to working 25 hours a week during school weeks, and 60 hours a week between school years ("summer vacation" periods).

TIME-OF-DAY LIMITATION — The provision restricting most minors under age 16 from working outside the hours of 7:00 a.m. to 7:00 p.m. (to 9:00 p.m. from June 1 to Labor Day) *does not apply* to agricultural employment.

HAZARDOUS OCCUPATIONS — In general, no minor may operate or assist in the operation of power-driven farm machinery, or ride in or on any such machinery, unless (1) the employer obtains an employment certificate from the state labor department, and (2) the minor has obtained a certificate of training on tractor or related machinery operation issued by an approved training provider.

EMPLOYMENT PERMITS — Employment of a minor under the age of 14 requires an employment permit, issued by the state labor department. Likewise, farm operators who wish to employ minors as young as 14 to operate or to ride in or on power-driven farm machinery, or to ride in or on trailers or similar equipment connected to power-driven farm machinery, are required to obtain a special certificate from the department as well; a certificate authorizing such work may be issued only with proof that the minor has completed some form of pre-employment training approved by the department.

MEAL PERIODS — Without exception, every employee under 18 years of age is entitled to a meal period of no less than 30 minutes. The meal period is not included as part of the day's work time.

REST PERIODS — Each minor must have a paid 15-minute break every 4 hours (or major portion thereof), to be given as close to the middle of the 4-hour period as possible.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). Representatives of the Bureau have authority to visit workplaces where minors may be employed, for the purpose of investigating compliance with the child labor laws. They may inspect evidence of age, payroll records and other documentation relevant to determining violations. The Bureau is authorized to impose a civil money penalty of up to \$1,000 on any employer not subject to the federal child labor laws for each violation of the state provisions. Non-compliance is also punishable as a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

CHILD LABOR ACT

STATUTORY CITATION: 43 Pa. Stat. §§ 40.1 - 40.14

GENERAL SUMMARY: With some exceptions, Pennsylvania's Child Labor Act (1) forbids the employment of children under 14 years of age, (2) restricts the hours during which youth under the age of 18 may be employed, (3) requires minors to obtain a work permit as a prerequisite for employment, (4) gives minors the right to rest breaks during work, (5) prohibits employment of minors in establishments regarded as hazardous to health, safety or morals, and (6) imposes recordkeeping and other duties on employers using child labor.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — With only narrow exceptions, children under 14 may not be employed.

HOURS LIMITATIONS —

Children Age 14 and 15 — No child 14 or 15 years of age may be employed before 7:00 a.m. or after 7:00 p.m. (except during summer vacation periods, when work is allowed between 7:00 a.m. and 10:00 p.m.). Furthermore, 14- and 15-year-olds generally may not work more than 3 hours on a school day or 8 hours on a non-school day, more than 18 hours during a school week or 40 hours in a non-school week, or more than 6 consecutive days.

Children Age 16 and 17 — When school is in session, 16- and 17-year-olds are not permitted to work before 6:00 a.m. or after 12:00 midnight (except on nights preceding non-school days, when such minors may work until 1:00 a.m.), nor for more than 28 hours during a school week or for more than 8 hours in a single day. During school vacation periods, 16- and 17-year-olds may not be employed or permitted to work for more than 6 consecutive days, for more than 44 hours in a single week (or 48 hours, if agreed to voluntarily by the minor), or for more than 10 hours in a single day.

WORK PERMITS — Before anyone under 18 may be employed, the employer must obtain and keep on file a work permit, issued by the school district where the minor resides, upon application by the minor's parent or guardian.

REST BREAKS — No one under the age of 18 may work for more than 5 continuous hours (including any break time of less than a half-hour) without a rest break of at least 30 minutes.

PROHIBITED EMPLOYMENT — The only agriculturally related occupations statutorily closed to minors as detrimental to their well-being are stripping and sorting of tobacco. This restriction applies to workers under 16 years of age.

RECORDKEEPING — Employers must keep a list of all workers under the age of 18 who are employed in their establishments. The list must include a record of the hours worked by each minor each day and week, as well as their start- and end-times and the times allowed for breaks.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department may enter any workplace where minors are or may be employed, to ascertain compliance with the child labor provisions. The Department is authorized to prosecute employers found in violation, in criminal proceedings before a magisterial district judge within the district where the offense was committed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Apart from their role in the issuance of work permits, the local school districts are vested with the same inspection and prosecutorial powers as those exercised by the Department of Labor and Industry.

SEASONAL FARM LABOR ACT (EMPLOYMENT OF MINORS)

STATUTORY CITATION: 43 Pa. Stat. § 1301.203

GENERAL SUMMARY: Among many other worker protections afforded by the Seasonal Farm Labor Act, the law includes provisions protecting children under the age of 14 from forced farm labor, and augments the hours restrictions imposed by the state child labor law, outlined in the previous entry.

SPECIFIC TERMS AND CONDITIONS

FORCED LABOR PROHIBITED — No child under the age of 14 (other than a member of the employer's immediate family) may be required to work as a seasonal farmworker, or penalized for failure to work as a seasonal farmworker.

HOURS RESTRICTION — On any regular school day in the district where the child is residing, no child between the ages of 14 and 17 (inclusive) may be employed in seasonal farmwork between 7:00 a.m. and one hour following the end of the school day of the local district where the child resides. This restriction applies whether or not the child is registered as a student in that district.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department may enter any workplace where minors are or may be employed, to ascertain compliance with these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – In enforcing the state child labor laws, the local school districts are vested with the same inspection and prosecutorial powers as those exercised by the Department of Labor and Industry.

ACT OF JUNE 23, 1931

STATUTORY CITATION: 43 Pa. Stat. §§ 67 - 71

GENERAL SUMMARY: Chapter 2A of the state labor statutes imposes conditions on the employment of non-resident minors in food crops and canneries.

SPECIFIC TERMS AND CONDITIONS

A child who is under 16 years old and not a permanent resident of Pennsylvania may not be employed in any cannery, or in the cultivation or harvesting of berries, fruits or vegetables, during the time the child is required to attend school in his or her home state. If, however, the child is otherwise lawfully employed in Pennsylvania during a home-state summer vacation period, the employer may have 15 days in which to discontinue a child's employment after the date of his or her required return to school after the summer vacation period ends.

Likewise, cannery operators and farm employers in Pennsylvania are generally forbidden from employing non-resident workers under 16 unless the employer has on file a certificate issued by the local school district in the child's home state, certifying the child's age and the exact periods during which the child is required to attend school there.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – In enforcing the state child labor laws, the local school districts are vested with the same inspection and prosecutorial powers as those exercised by the Department of Labor and Industry.

Puerto Rico

CHILD LABOR LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 431 - 456

RELATED REGULATIONS: Regulation 230

GENERAL SUMMARY: Puerto Rico's child labor laws limit the working hours and occupations of persons under 18 years of age, prohibit the employment of minors in certain injurious occupations, prescribe the use of employment certificates as a means of regulating the use of child labor in most trades and industries, and grant minors the right to on-the-job lunch periods.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE AND HOUR LIMITATIONS —

Children Under Age 14 — With few exceptions, minors under the age of 14 may not be employed in agriculture or any other industry at any time.

Children Age 14 and 15 — Minors 14 and 15 years of age are forbidden to work in any gainful occupation during the hours in which the public schools are in session. Outside school hours and during school vacations, 14- and 15-year-olds may be employed in agriculture and most other industries for up to 6 consecutive days and up to 40 hours in any one week, and for up to 8 hours in any one day. Employment is not authorized before 8:00 a.m. or after 6:00 p.m. On any school day, the combined hours of class time and employment, if any, may not exceed 8 hours.

Children Age 16 and 17 — In agriculture as in most other sectors, no minor 16 or 17 years of age may work before 6:00 a.m. or after 10:00 p.m., and those attending school and working after class on school days are limited to a combined total of 8 hours of school and work time.

INJURIOUS OCCUPATIONS — It is generally unlawful to employ minors, or allow minors to work, in an occupation deemed by the enforcement agency to be dangerous or injurious to their life, health, education, safety or welfare. Among other agriculturally related activities, no one under the age of 18 may be employed to cut sugarcane, to operate power-driven mowers, to drive or assist in driving a tractor or other vehicle, or to perform work at a height of more than 5 feet, or in a job requiring the use or handling of pesticides and similar agricultural chemicals. Similarly, minors under 16 years of age may not be employed in the cutting, lashing or binding of tobacco, in irrigating with chemicals, in spraying chemical fertilizers, or in weeding operations.

EMPLOYMENT CERTIFICATES — Except in the harvest of coffee, minors 14 through 17 years of age (inclusive) generally may not be employed or permitted to work in agricultural and most other gainful occupations unless the employer obtains and keeps on file an employment certificate from the enforcement agency, and conspicuously posts at the workplace a list of all minors employed at his or her establishment. Minors hired to pick coffee must carry and present to the employer a card, issued by the department in lieu of an employment certificate, indicating that the child is at least 14 years old and in sound physical condition.

LUNCH PERIODS — No minor may be employed for more than 4 consecutive hours without being allowed at least one hour for lunch.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). It is the duty of this agency to determine the eligibility of minors for employment and to issue certificates to those applicants who meet the minimum age and other requirements for the prospective job. To determine employer compliance with the child labor laws, agents of the Department may enter any workplace in Puerto Rico for the purpose of examining employment and age certificates and inspecting other personnel records. Violation of these provisions is classified as a misdemeanor, punishable by fine or imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

CHILD LABOR LAWS

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-3-1 - 28-3-20

GENERAL SUMMARY: Chapter 3 of the Rhode Island labor statutes regulates, among other matters, the employment of children in the state, by restricting the age at which work is authorized in specified trades and establishments, limiting the working hours of minors, requiring the issuance of a work permit as a precondition on hiring youth, and prohibiting the employment of minors in hazardous occupations and workplaces. These provisions generally apply to individuals and firms employing 5 or more workers or employing any child under the age of 16.

PROVISIONS APPLICABLE TO AGRICULTURE: The child labor laws do not apply to minors employed in agricultural pursuits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

CHILD LABOR LAW

STATUTORY CITATION: S.C. Code §§ 41-13-5 - 41-13-60

RELATED REGULATIONS: S.C. Code Regs. 71-3100 - 71-3111

GENERAL SUMMARY: Chapter 13 of the South Carolina labor statutes makes it unlawful for any employer to engage in oppressive child labor practices, and confers broad authority on the state labor director to adopt specific rules that effectuate that general statement of policy, and that are not more restrictive than the applicable federal child labor regulations.

PROVISIONS APPLICABLE TO AGRICULTURE

AGE RESTRICTIONS — In contrast with the 14-year minimum age standard prescribed by the labor commissioner for most non-agricultural employment, children as young as 12 years of age are permitted to work in agriculture, provided employment occurs outside local school hours and with the consent of the child's parent or person standing in the place of the parent. Minors 14 years old and over may work in non-hazardous agricultural occupations outside school hours with no further restrictions.

HOUR LIMITATIONS — The regulatory provisions curbing the daily and weekly working hours of minors under 16 in most non-agricultural pursuits and limiting the time of day during which such employment is authorized *do not apply* to employment in agriculture.

HAZARDOUS AGRICULTURAL OCCUPATIONS — The administrative regulations generally prohibit the employment of anyone under the age of 16 in the following agricultural activities, among others:

- (1) Operating a tractor of over 20 horsepower.
- (2) Operating or helping to operate power harvesting equipment such as corn pickers, cotton pickers, grain combines, hay mowers, hay balers or potato diggers.
- (3) Working from a ladder or scaffold at a height over 20 feet.
- (4) Driving a vehicle transporting passengers, or riding on a tractor as a passenger or helper.
- (5) Handling or applying certain agricultural chemicals identified by the word "Poison" or "Warning" on the label.
- (6) Transporting, transferring or applying anhydrous ammonia.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-4470). Agents of the Department may enter any establishment in the state where minors are employed and may have access to all records relevant to the enforcement of the child labor law. The Department is authorized to prosecute any employer found to be employing a minor in violation of the law or the associated regulations. Administrative fines for violations may range from \$300 to \$5,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Dakota

CHILD LABOR LAWS

STATUTORY CITATION: S.D. Codified Laws §§ 60-12-1 - 60-12-14

GENERAL SUMMARY: The child labor laws of South Dakota prescribe minimum ages for employment in certain trades and industries, limit the working hours of minors under 16, authorize issuance of work permits allowing minors to engage in otherwise prohibited employment, and impose sanitary standards on certain establishments where children are employed.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The provision in the child labor laws which sets a minimum age of 14 for lawful employment in factories, workshops and mines, and in mercantile establishments during school hours, *does not apply* to employment in agriculture or to any other form of employment not explicitly covered.

WORKING HOURS — In general, unemancipated minors under the age of 16 are prohibited from working (1) for more than 4 hours on any school day or more than 8 hours on any non-school day, (2) for more than 20 hours in any school week or more than 40 hours in any non-school week, and (3) after 10:00 p.m. on any night before a school day.

Exception — There are no hours or time-of-day restrictions on minors roguing or detasseling hybrid seed corn on a non-school day or during a non-school week.

WORK PERMITS — In agriculture and any other industrial or occupational area, if employment of a minor who would otherwise be barred from working is necessary for his or her support, or for the support of the minor's family, the enforcement agency may issue a permit authorizing employment during the hours specified on the permit.

SANITATION — The provision obligating the operator of any factory, mill or workshop where minors are employed to keep the workplace sanitary, properly ventilated, and equipped with separate restrooms for male and female employees, *does not apply* to agricultural workplaces or any other class of establishment not explicitly described.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). The Department is responsible for investigating complaints or reports of child labor violations, and for prosecuting persons found to have committed any act prohibited by these provisions. For that purpose, the agency has authority to visit any workplace where minors are employed and to inspect related employment records.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The superintendent of the school district in which a child at work resides, or in which an establishment where a minor at work is located, is authorized to inspect the child's place of work.

Tennessee

CHILD LABOR ACT OF 1976

STATUTORY CITATION: Tenn. Code §§ 50-5-101 - 50-5-115

GENERAL SUMMARY: The Child Labor Act establishes a minimum age of 14 for lawful employment in most trades and industries in Tennessee, limits working hours and sets other employment conditions for 14- and 15-year-olds, prescribes slightly more flexible standards for minors 16 and 17 years of age, prohibits the employment of minors of any age in certain hazardous occupations, requires that minors be provided with an unpaid 30-minute break or meal period if scheduled to work 6 consecutive hours or more, and imposes recordkeeping and posting duties on those who employ child labor.

PROVISIONS APPLICABLE TO AGRICULTURE: The Child Labor Act does not apply to minors employed in agricultural work.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

O CHILD LABOR LAW

STATUTORY CITATION: Tex. Labor Code §§ 51.001 - 51.046

RELATED REGULATIONS: 40 Tex. Admin. Code §§ 817.1 - 817.33

GENERAL SUMMARY: With the legislative aim of ensuring that no child is employed in an occupation or in a manner that is detrimental to the child's safety, health or well-being, Chapter 51 of the Texas labor statutes establishes a minimum age of 14 for lawful employment in most trades and industries in the state, limits the number of hours and the time of day during which minors may be employed, and prohibits child labor in occupations declared hazardous by the state workforce commission.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided employment occurs only outside the hours during which the child is legally required to attend school, the child labor law **does not apply** to any minor employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Law Section, Texas Workforce Commission, Austin, Texas 78778. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Utah

CHILD LABOR LAWS

STATUTORY CITATION: Utah Code §§ 34-23-101 - 34-23-402

RELATED REGULATIONS: Utah Admin. Code R. 610-2

GENERAL SUMMARY: Utah's child labor laws generally forbid the employment of youth under 18 years of age in certain hazardous occupations, restrict the non-hazardous occupations open to minors below the age of 16, and limit the working hours of children under 16.

PROVISIONS APPLICABLE TO AGRICULTURE

HAZARDOUS OCCUPATIONS — As a general rule, no one under 18 years of age may be employed or permitted to work in an occupation determined to be hazardous under federal law by the U.S. Department of Labor (see entry, U.S. — Child Labor — Age, Hours, and Related Standards).

AGE RESTRICTIONS IN NON-HAZARDOUS OCCUPATIONS — Unlike most non-agricultural employing sectors, which have age thresholds ranging from 10 to 14, there is **no minimum age** for agricultural work.

LIMITATIONS ON HOURS — Unless authorized by school authorities, minors under the age of 16 generally may not be employed or allowed to work in any occupation during school hours. Furthermore, in agriculture and in all other pursuits, no child under 16 may work before or after school in excess of 4 hours a day, nor before 5:00 a.m. or after 9:30 p.m., except on days preceding non-school days. At no time may a person under 16 work more than 8 hours in any 24-hour period, or more than 40 hours in any week.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discharge an employee, retaliate against an employee, or threaten such action because the employee has testified or may testify in any investigation or proceeding relevant to enforcement of these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238). Representatives of the Commission are authorized to enter and inspect any place of employment, examine age certificates and related personnel records, and take other action to determine compliance with the child labor laws. Anyone found to have violated the child labor laws is subject to an administrative fine of up to \$500, and willful violation is a Class B criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

CHILD LABOR LAWS

STATUTORY CITATION: Vt. Stat. Title 21, §§ 430 - 453

RELATED REGULATIONS: Vt. Code R. 24-010-009

GENERAL SUMMARY: Vermont's child labor laws regulate the employment of minors under 16 years of age, by requiring such individuals to have a state-issued certificate as a prerequisite to employment during school hours, limiting the working hours of minors under 16 in most trades and industries, and generally prohibiting employment of minors under 16 in certain occupations regarded as hazardous to a child's health or well-being.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE -

Children Under Age 12 — With parental permission, minors under 12 may work in non-hazardous jobs during non-school hours on any farm where none of the workers are covered by the federal minimum wage (see entry, U.S. — Wages & Hours — Minimum Wage).

Children Age 12 and 13 — During vacation periods and before and after school, children 12 and 13 years of age may work in non-hazardous agricultural activities provided they have written permission from their parent or guardian, or are working on the same farm as their parent or guardian.

Children Age 14 and Over — Except for the hours limitation discussed below, there are generally no restrictions on the employment of workers 14 years old and older in non-hazardous agricultural activities.

WORKING HOURS — No child under 14 may be employed in any occupation during school hours. No child under 16 years of age may be employed for more than 8 hours in any one day or more than 40 hours in any one week.

The statutory limitations on the time of day during which minors may be employed **do not apply** to work connected with agriculture.

EMPLOYMENT CERTIFICATES — Agricultural and non-agricultural employers are forbidden from hiring any person under the age of 16 during school hours, unless the child has a certificate issued by the state authorizing such employment. Issuance of a certificate is dependent on the child's good standing in school, proof of age, and a physician's statement of the child's physical fitness.

HAZARDOUS OCCUPATIONS — Among the activities regarded as hazardous, and thus closed to children under 16, are (1) driving a tractor of over 20 PTO horsepower, (2) operating or helping to operate power harvesting equipment, (3) working from a ladder at a height of over 20 feet, and (4) driving a vehicle transporting passengers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4204). Agents of the Department are authorized to inspect workplaces where minors are employed, examine employment certificates, and take related action to determine compliance with the child labor laws. An employer who employs a child in violation of these provisions, and any person who has control of the child and permits the child's unlawful employment, are subject to a fine of up to \$5,000, a jail term of up to 6 months, or both such penalties. Likewise, it is a criminal offense, punishable by a maximum fine of \$10,000, for an employer to sell or offer for sale any commodity or product produced by illegal child labor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

CHILD LABOR LAW

STATUTORY CITATION: Va. Code §§ 40.1-78 - 40.1-116

RELATED REGULATIONS: 16 Va. Admin. Code §§ 15-40-10 - 15-50-50

GENERAL SUMMARY: With limited exceptions, the state child labor law establishes a minimum age of 14 for lawful employment in Virginia, limits the working days and hours of minors under 16, forbids the employment of a person under 16 unless the employer has on file an employment certificate issued to the child by the local school district, prohibits child labor in certain hazardous or harmful occupations, and requires employers to keep a record of the work time of each minor in their employ.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast with the minimum age of 14 applicable to most other occupational categories, children as young as 12 years old may be employed in non-hazardous operations on farms and in orchards with no other restrictions, provided the employment takes place outside school hours and they have the consent of their parent or guardian.

HOURS LIMITATIONS — The restrictions on the days and hours of employment applicable to most other occupational categories do not apply to minors working on farms and in orchards.

MEAL PERIODS — No child may be employed or permitted to work for more than 5 continuous hours without a meal break of at least 30 minutes.

EMPLOYMENT CERTIFICATES — The requirement that employers of minors under the age of 16 obtain and keep on file an employment certificate authorizing such employment *does not apply* to minors working on farms and in orchards.

HAZARDOUS OCCUPATIONS — No child under 16 years old may be employed in an occupation declared hazardous by the state labor commissioner. Among the prohibited agricultural occupations are (1) operating a tractor of over 20 PTO horsepower, (2) operating or helping to operate power-driven harvesting machines, (3) working from a ladder at a height of over 20 feet, (4) working inside a grain elevator or silo, (5) driving a motor vehicle transporting passengers, and (6) handling or applying pesticides, anhydrous ammonia or other agricultural chemicals.

RECORDKEEPING — Every farm operator or other agricultural establishment that employs anyone under 16 years of age on days when school is in session, or on any day if the minor is working in a hazardous occupation, must keep a record of the child's full name, current and permanent address, and date of birth.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104). This agency is responsible for enforcing the child labor provisions, and as such has authority to receive and investigate related complaints. The Department may impose a civil penalty of up to \$1,000 for each violation, and up to \$10,000 for a violation that results in a child's serious injury or death.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

INDUSTRIAL WELFARE LAWS (WAGES AND WORKING CONDITIONS OF MINORS)

STATUTORY CITATION: Wash. Rev. Code § 49.12.121

RELATED REGULATIONS: Wash. Admin. Code §§ 296-131-001 - 296-131-140

GENERAL SUMMARY: The state labor department is authorized to investigate the wages, hours and working conditions of minors employed in any trade, business or occupation in Washington, and to adopt related rules for the protection of the safety, health and welfare of workers under 18 years of age.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted administrative rules regulating the employment of minors in agriculture, key provisions of which are summarized here:

MINIMUM AGE — While minors under the age of 14 are generally barred from employment in agricultural and non-agricultural occupations, 12- and 13-year-old children may be employed in the hand harvest of berries, bulbs and cucumbers, and in the hand cultivation of spinach, during weeks when school is not in session.

MAXIMUM HOURS — Minors legally required to attend school generally may not work during school hours.

Minors Under Age 16 — With slightly more flexibility than their counterparts working in non-agricultural pursuits, when school is in session minors under the age of 16 may work in agricultural jobs up to 3 hours a day on school days, up to 8 hours a day on non-school days, and up to 21 hours a week. When school is not in session, minors under 16 may work up to 8 hours a day and 40 hours a week.

Minors Age 16 and 17 — When school is in session, 16- and 17-year-olds may work up to 28 hours a week, 4 hours a day on school days, and 8 hours a day on non-school days. When school is not in session, they may be employed for up to 10 hours a day and 50 hours a week (or up to 60 hours a week in the mechanical harvest of peas, wheat and hay).

In general, no minor may be employed for more than 6 days in any one week.

TIME-OF-DAY RESTRICTIONS — On days when school is in session, minors under the age of 16 generally may not be employed before 7:00 a.m. or after 8:00 p.m. When school is not in session, employment of workers under 16 is generally prohibited before 5:00 a.m. and after 9:00 p.m.

In most cases, 16- and 17-year-olds may not be employed before 5:00 a.m. or after 9:00 p.m., but may work until 10:00 p.m. on up to two consecutive nights preceding a school day.

MEAL AND REST PERIODS — On slightly less favorable terms than their counterparts in non-agricultural workplaces, minors and other workers employed in agriculture for more than 5 hours on a given day are entitled to a meal period of at least 30 minutes; employees working 11 or more hours a day must be allowed at least one additional 30-minute meal period. Likewise, every employee must be allowed a paid rest break of at least 10 minutes in each 4-hour period of employment.

MEAL AND REST PERIODS — On slightly less favorable terms than their counterparts in non-agricultural workplaces, minors and other workers employed in agriculture for more than 5 hours on a given day are entitled to a meal period of at least 30 minutes; employees working 11 or more hours a day must be allowed at least one additional 30-minute meal period. Likewise, every employee must be allowed a paid rest break of at least 10 minutes in each 4-hour period of employment.

EMPLOYMENT PERMITS — Within 3 days after employing anyone under 18 years of age for agricultural work, the employer must apply to the state labor department for a permit to employ minors. If approved, the permit will authorize the employer to employ any number of minors at the same workplace, for up to one year.

PROHIBITED WORK — Among many other hazardous occupations listed in the agricultural regulations, children under the age of 16 are prohibited from (1) operating a tractor of over 20 PTO horsepower, (2) operating or assisting in the operation of power-driven harvesting machines, (3) working from a ladder at a height of more than 20 feet, (4) driving a motor vehicle carrying passengers, and (5) working inside a silo or grain storage facility. No minor may be employed in mixing, handling, loading or applying pesticides, anhydrous ammonia or other hazardous agricultural chemicals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). This agency is authorized to receive and investigate complaints of alleged violations of the state labor laws, including the child labor provisions summarized here.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ MISCELLANEOUS AGRICULTURAL LAWS (BERRY HARVESTING BY MINORS)

STATUTORY CITATION: Wash. Rev. Code §§ 15.04.150 - 15.04.160

GENERAL SUMMARY: Chapter 15.04 of the state statutes contains an exception to the child labor regulations, permitting the use of children younger than 12 years of age in the harvesting of berries under certain conditions. These restrictions do not apply to any employer who is not subject to the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage).

SPECIFIC TERMS AND CONDITIONS: A child under the age of 12 may be employed to pick berries in Washington outside local school hours, provided that all of these conditions are met:

- Employment is with the consent of the child's parent or person standing in the place of the parent.
- (2) The berries involved are for sale within the state only and not for out-of-state shipment in any form.
- (3) There are not sufficient workers available in the immediate area to harvest the crop without the labor of workers under 12.
- (4) The employer pays all of the workers engaged in the berry harvest at the same wage rate.

Each basket, package or other container holding berries or berry products picked by an employee under 12 years of age must be distinctively marked to ensure that the berries do not enter interstate commerce.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department has both the power and the duty to enforce all state laws relating to employment, including the special child labor provisions for the harvest of berries. Representatives of the Department may enter any place of employment for the purpose of inspecting working conditions and investigating reported or suspected violations of the labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O DOMESTIC RELATIONS LAWS (CHILD LABOR PENALTY)

STATUTORY CITATION: Wash. Rev. Code § 26.28.060

GENERAL SUMMARY: With few exceptions, it is a misdemeanor for anyone to employ a child under the age of 14 in the state of Washington without the written consent of a superior court judge. The parent, guardian or other person having custody or control of a child under 14 who allows the child to be employed without such consent is subject to criminal prosecution to the same extent as the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision does not apply to farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This law is enforced by local prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

West Virginia

CHILD LABOR LAW

STATUTORY CITATION: W. Va. Code §§ 21-6-1 - 21-6-11

RELATED REGULATIONS: W. Va. Code R. §§ 42.9.1 - 42.9.12

GENERAL SUMMARY: With certain exceptions, West Virginia's child labor law forbids the employment of children under 14 years of age, prohibits the employment of anyone under 18 years of age in certain occupations statutorily or administratively deemed dangerous or injurious to such individuals, bars the employment of minors under the age of 16 in most gainful occupations unless the employer has on file a work permit for each such child employed, and limits the working hours of children under 16 in most trades and industries.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — There is **no minimum age limit** on employment of children in agriculture, as long as the job is not on the list of occupations declared hazardous by the U.S. Department of Labor.

PROHIBITED OCCUPATIONS — Under rules adopted by the state labor commissioner, the occupations declared by the U.S. Department of Labor to be hazardous to minors also apply to employment in West Virginia. Among other agriculturally-related activities prohibited for workers under 16 years of age are these: (1) operation of a tractor of over 20 PTO horsepower, (2) operation or assisting in the operation of power-driven harvesting equipment, (3) working from a ladder at a height of over 20 feet, (4) driving a motor vehicle transporting passengers, (5) working inside a fruit or grain storage facility or silo, and (6) handling or applying pesticides, anhydrous ammonia and other agricultural chemicals.

WORK PERMITS — The requirements for obtaining a work permit allowing employment of youth under the age of 16 **do not apply** to agricultural employment.

WORKING HOURS — The restrictions on the maximum hours and time of day during which children under 16 may be lawfully employed *do not apply* to agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890). This agency is responsible for enforcing the state child labor law, and representatives of the Division of Labor have authority to enter and inspect any workplace and records pertinent to compliance. An employer who violates any of these provisions, and any parent or guardian who allows a child to work in violation of these provisions, is guilty of a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – School truancy officers and other school officials may assist the Division of Labor in enforcing the child labor provisions.

Wisconsin

CHILD LABOR LAWS

STATUTORY CITATION: Wis. Stat. §§ 103.64 - 103.82

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 270

GENERAL SUMMARY: The Wisconsin child labor laws establish a minimum age of 14 for lawful employment in most gainful occupations in the state, limit the working hours of minors under 18 in various categories of employment, require issuance of a child labor permit as a precondition for hiring most minors, and authorize the state labor department to adopt additional standards necessary to protect the life, health, safety and welfare of the state's youth.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — In contrast with the 14-year age threshold in most other trades and occupations, children as young as 12 may be employed in agricultural pursuits.

SCHOOL ATTENDANCE — Minors under 18 years of age are generally forbidden to work in any gainful employment during the hours they are required to attend school.

PROHIBITED OCCUPATIONS — Among numerous other agriculturally related activities deemed hazardous by the state labor department, minors under 16 years of age are forbidden to operate or assist in the operation of mechanical harvesting equipment, mowers, balers, grinders and similar farm machinery. Such individuals are not permitted to work from any ladder or scaffold at a height more than 20 feet. Children under 16 are also prohibited from handling or applying any toxic agricultural chemical whose container is branded with the word "Poison" or "Warning" or displays the skull-and-crossbones symbol, and from transporting, transferring or applying anhydrous ammonia. The state child labor regulations do provide for exceptions to these restrictions, but only under relatively narrow circumstances.

MEAL PERIODS — No one under 18 may be employed or permitted to work more than 6 consecutive hours without a meal period of at least 30 minutes' duration.

WORKING HOURS — The restrictions on the maximum hours and times of day during which minors may be lawfully employed *do not apply* to farm labor.

CHILD LABOR PERMITS — The provisions generally barring the employment of minors who do not possess a child labor permit issued by the state *do not apply* to children age 12 and over engaged in farming.

SOLICITATION OF CHILD LABOR — The prohibitions against advertising for the services of minors during school hours, and soliciting minors in schools and homes for purposes of employment, *do not apply* to agriculture or any other line of work which does not require a child labor permit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). To enforce compliance with the child labor laws, representatives of this agency are authorized to visit and inspect all places of employment subject to these provisions. Any employer who employs or permits a minor to work unlawfully is subject to a fine of between \$25 and \$1,000 for a first offense, and a fine of up to \$5,000 and imprisonment for up to 30 days for subsequent violations. Parents or guardians may also be fined for allowing a child in their custody or under their control to be unlawfully employed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – School attendance officers have authority comparable to that exercised by the Department to visit and inspect workplaces for the purpose of monitoring compliance with the child labor laws.

Wyoming

CHILD LABOR LAWS

STATUTORY CITATION: Wyo. Stat. §§ 27-6-107 - 27-6-116

GENERAL SUMMARY: Wyoming's child labor laws generally forbid employment of most minors under 14 years of age, bar employment of minors under 16 during school hours, limit the working hours of children under 16, prohibit the employment of minors under 16 in certain trades and occupations deemed hazardous, and require anyone who employs a minor under the age of 16 to obtain proof of the child's age.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM AGE — The provision making 14 the minimum age for lawful employment of children in Wyoming *does not apply* to services on a farm. Children of any age may be employed in agriculture.

PROOF OF AGE — For the explicit purpose of assuring compliance with the minimum age requirement noted above, employers must document the age of each employee under the age of 16. Since there is no minimum age threshold applicable to farmwork, the requirement for proof of age in effect **does not apply** to agricultural employment.

EMPLOYMENT DURING SCHOOL HOURS — No one under the age of 16 who is enrolled in any public or private school in Wyoming may be employed or permitted to work in agriculture or any other industry during the time that the child's school is in session

WORKING HOURS — The provision generally limiting the working hours of minors below the age of 16 to 8 hours in any 12-hour period from 5:00 a.m. to 10:00 p.m. (or to 12:00 midnight on evenings before non-school days) *does not apply* to farm employment.

HAZARDOUS OCCUPATIONS — The child labor laws prohibit the employment of anyone under 16 years of age in any work that requires contact with or exposure to dangerous chemicals, which may preclude certain agricultural field operations on crops treated with pesticides. Currently, there are no agricultural or agriculturally related activities administratively closed to minors under 16 as hazardous occupations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). Representatives of the Department are authorized to enter any place where minors are employed, to inspect personnel records, question employees, and take other steps to determine compliance with the child labor laws. Violation of these provisions is a misdemeanor, punishable by a fine of from \$25 to \$100, a jail term of from 30 to 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alabama

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ala. Code 1975 §§ 16-28-1 - 16-28-45

GENERAL SUMMARY: In general, every child between the ages of 6 and 17 years must regularly attend school for the entire length of the school term, and the parent or person standing in the place of the parent is liable for the child's non-attendance. Among a limited number of exceptions, the compulsory attendance law exempts from attending public school any child who is legally and regularly employed under the state child labor law.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they comply with the hours and time-of-day restrictions prescribed in the state child labor law, children of any age may be employed in agricultural services and are thus **not subject** to the compulsory school attendance law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Local boards of education and the juvenile court system are responsible for assuring compliance with the compulsory attendance law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alaska

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Alaska Stat. §§ 14.30.010 - 14.30.047

GENERAL SUMMARY: With a few specific exceptions, every child between 7 and 16 years of age must attend public school (or its prescribed equivalent) during the school term. Every parent, or person standing in the place of the parent, having responsibility for or control of a child between the ages of 7 and 16 must ensure that the child is not absent without valid reason.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless excused under one or more of the law's narrow exemptions, the children of agricultural workers are subject to these provisions to the same extent as other school-age youth.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory education law is enforced by the state district courts, on complaints filed by public school districts or private school administrators. A violation of these provisions is a misdemeanor, conviction on which may lead to a separate fine for each 5 days of unlawful absence.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 15-801 - 15-808

GENERAL SUMMARY: The state compulsory school attendance law generally requires every person who has custody of a child between the ages of 6 and 16 to send the child to a public school (or an allowable equivalent) for the full time school is in session in the school district in which the child resides. Exceptions to this requirement include, among others, cases where the child is over 14 years of age and is employed at a lawful wage-earning occupation with the consent of the person who has custody of the child.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance provisions apply to parents or guardians of all 6- to 16-year-old minors, unless covered by one or more of the law's specific exemptions, none of which singles out agriculture for special treatment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local school districts, normally through attendance officers employed by their respective school boards. Attendance officers are authorized to enter any workplace where children may be employed and to make arrests for violations. Non-compliance with the compulsory attendance law is a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ark. Code §§ 6-18-201 - 6-18-231

GENERAL SUMMARY: With few exceptions, the state compulsory school attendance law requires every parent or other person residing in Arkansas and having custody of a child 5 through 17 years of age (both inclusive) to send such child to a public, private, parochial or home school.

PROVISIONS APPLICABLE TO AGRICULTURE: This law makes no exceptions categorically applicable to agricultural workers or their children. Farmworkers are obligated to assure their children's attendance at school, and children customarily employed in agriculture are not excused from school attendance by virtue of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by local school districts. Public school districts may enter into cooperative agreements with local law enforcement agencies to help improve school attendance, and law enforcement officers may stop and detain any unsupervised school-age child who is off school premises during school hours and request documentation excusing the child's absence from school.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Cal. Educ. Code §§ 48200-48361

GENERAL SUMMARY: The Compulsory Education Law provides that every person between the ages of 6 and 18 not otherwise exempted must attend a public school (or a private school which meets state standards) for the full time designated as the length of the school day by the governing board of the school district in which the child's parent or legal guardian resides. Among other fairly narrow exceptions, if a minor withdraws from school at age 16, he or she must be enrolled in a continuation education program or be exempted from attendance by passing a high-school proficiency exam. Every parent, guardian or other person having control or charge of a child of compulsory school age is responsible for assuring the child's school attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance requirement applies to farmworkers and their children to the same extent as to non-agricultural workers and families.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local school districts and local peace officers. School attendance supervisors, school administrators and police officers are authorized to take into temporary custody, during school hours, any child subject to the Compulsory Education Law who is found away from home and absent from school without valid excuse. Parents of habitually truant children are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The compulsory education law also authorizes the establishment of School Attendance Review Boards at the county and local levels, to enhance the enforcement of compulsory education and divert students with school attendance or behavior problems from the juvenile justice system until all available resources have been exhausted. SARBs have authority, when necessary, to refer students and their parents or guardians to court.

Colorado

SCHOOL ATTENDANCE LAW OF 1963

STATUTORY CITATION: Colo. Rev. Stat. §§ 22-33-101 - 22-33-111

GENERAL SUMMARY: With few exceptions, the School Attendance Law requires the parent or other custodian of a child between the ages of 6 and 16, inclusive, to see that the child attends a public school (or receives approved comparable academic instruction) for the full school year prescribed by state law.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworker parents or guardians and the children in their custody are subject to the compulsory attendance law to the same extent as other parents and children.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The School Attendance Law is enforced by the elected board of education in each local school district, through attendance officers employed for that purpose. District attendance officers are responsible for investigating the causes of non-attendance, reporting their findings to the respective local board of education, and counseling with students and parents. Only after the district has attempted other options for addressing truancy, court action may be initiated against the parent and child involved to compel attendance. Failure to comply can subject a parent to a jail term.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Colorado Department of Education, Denver, Colorado 80203 (303-866-6600). The Department may advise the individual school districts concerning enforcement of compulsory school attendance.

Connecticut

SCHOOL ATTENDANCE AND CHILD EMPLOYMENT LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 10-184 - 10-202f

GENERAL SUMMARY: With few exceptions, each parent or other person having control of a child who is at least 5 years of age but not yet 18 must assure the child's regular attendance at a public day school during the hours and terms that the local public schools are in session, unless the parent or guardian can show that the child is receiving equivalent instruction elsewhere. This law makes no distinctions between farmworkers and non-farmworkers, or between agricultural and non-agricultural employers.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT RESTRICTIONS —Employers are prohibited from employing a child under 14 years of age during the hours when the school the child should be attending is in session.

AGE CERTIFICATES — In the following specific cases, employers wishing to employ anyone under 18 years of age must obtain a certificate from the local school district proving that the minor is:

16 Years of Age or Older — For work in the manufacturing, mechanical or theatrical industry, or in a restaurant, bowling alley, or shoeshine or barber shop.

15 Years of Age or Older — For work in a retail store or other mercantile establishment.

14 Years of Age or Older - For work at a golf course.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The school attendance law is enforced by local boards of education, primarily through attendance officers appointed for that purpose. Attendance officers are authorized to investigate absences and irregular attendance, and to pursue court prosecution of employers who permit children to work in violation of these provisions, as well as prosecution of parents and guardians who fail to assure regular school attendance by children in their custody.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Del. Code Title 14, §§ 2701-2735

GENERAL SUMMARY: Every person in the state having control of a child between the ages of 5 and 16 is generally required to send the child to a free public school in the district where the child's parents reside, for each day of the minimum school term. Compulsory attendance at a public school is not required if it can be demonstrated to the satisfaction of state and local education authorities that a child is elsewhere receiving regular and thorough instruction in the subjects prescribed for the public schools in Delaware, in a manner suitable to children of the same age and stage of development.

PROVISIONS APPLICABLE TO AGRICULTURE: The school attendance law applies to children and their parents or guardians without regard to occupational status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school superintendents, local law enforcement officers, and justices of the peace. Any child under the age of 16 identified by a police officer as being off school property without official authorization may be returned to his or her home school, or detained in police custody for up to 2 hours pending notification of a parent or guardian. If a student is absent from school without a valid excuse for more than one day, the campus principal may take such action as he or she deems appropriate; after a student's 20th day of unexcused absence during the school year, the principal is generally required to file a charge against the parent. Parents or guardians of children who are truant may be prosecuted in justice court and fined or imprisoned upon conviction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Fla. Stat. §§ 1003.21-1003.29

GENERAL SUMMARY: The compulsory school attendance law provides that, with certain exceptions, all children who have reached the age of 6 years but are not yet 16 are required to attend school regularly during the entire school term. The law makes the parent of a child of mandatory school age responsible for the child's attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to all children in the affected age group, and to their parents or guardians, without respect to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by local school superintendents or their designees, who are responsible for maintaining pupil accounting records, investigating non-enrollment and unexcused absences, and giving notice to parents or guardians in cases of unexplained non-attendance or absence. School officials are authorized to enter and inspect any establishment where minors may be employed, for the purpose of investigating possible violations of the compulsory attendance law. In each instance of non-enrollment or non-attendance on the part of a child who is required to attend school, when no valid reason for such non-enrollment or absence is found and after written notice to the parent, the superintendent must institute criminal prosecution against the child's parent.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Child Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-3131). School superintendents or their designees are required to report to this agency all apparent violations of the Child Labor Law that come to their attention in the course of enforcing compulsory school attendance.

Georgia

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Ga. Code §§ 20-2-690 - 20-2-703

GENERAL SUMMARY: With few exceptions, every parent, guardian or other resident of the state who has control or charge of any child between the ages of 6 and 16 must enroll and send the child to a public school, a private school, or a home study program that meets state-prescribed educational requirements.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to children and their parents or guardians without regard to occupational status or classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This law is enforced by county and independent school system boards of education and their respective superintendents, in cooperation with local peace officers. Any parent, guardian or other person who has control of a child and who fails to assure the child's school attendance as required by law is guilty of a misdemeanor and, upon conviction, is subject to a fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 302A-1132 - 302A-1137

GENERAL SUMMARY: In general, all children in Hawaii who, on or before July 31 of any school year, will have reached the age of 5 or older, and will not have attained the age of 18 by January 1 of that school year, are required to attend either a public or private school during that school year. Any parent, guardian or other person having responsibility for or care of a child whose attendance at school is mandatory must send the child to a public or private school. Among other exceptions, a child who has reached the age of 15 and is suitably employed may be excused from school attendance by the school superintendent or by a family court judge.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to attend school extends to all children in the affected age group, unless otherwise excused, and the corresponding duty of parents and guardians to ensure their children's attendance applies regardless of occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Hawaii State Department of Education, Honolulu, Hawaii 96813 (808-305-9787). Officials of the Department may present a petition, complaint or citation in family court charging a child with persistent absence. In response, the judge of such court may summon the child and the child's parent or guardian before the court, and if evidence confirms that the person responsible for the child has not used proper diligence to enforce the child's regular attendance at school, the responsible party is guilty of a petty misdemeanor. Subject to the plans and policies of the Department, local police officers may also enforce these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Idaho Code §§ 33-201 – 33-211

GENERAL SUMMARY: With certain narrow exceptions, the parent or guardian of any child residing in Idaho who has attained the age of 7 years at the start of school in the local district, but has not reached the age of 16, must assure that the child attends a public, private or parochial school, or receives approved comparable instruction, for a period of time each year equal to the duration of the public school session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provision applies universally to children in the affected age bracket unless they are individually excused or exempted by local school authorities. The obligation to assure attendance falls on parents or guardians without respect to occupational category.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by school district boards of trustees, in cooperation with county probation officers. Whenever it comes to the attention of the local school board that the parents or guardians of any child are failing to meet their duty to assure the child's school attendance, the board may file a petition to have proceedings brought against the parents or guardians under the Juvenile Corrections Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: 105 Ill. Comp. Stat. §§ 5/26-1 - 5/26-16

GENERAL SUMMARY: With a few narrow exceptions, whoever has custody or control of any child who has reached the age of 6 on or before September 1 and is not over the age of 17 must see that the child attends a local public school (or a private school providing comparable instruction) for the entire time it is in session during the regular school term.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance laws apply to children in the affected age group, and to their parents and guardians, without respect to occupational considerations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by school districts and regional school superintendents, through truant officers and other designated authorities. If, after notice of non-compliance and a series of other procedural requirements, a person having custody of a child fails to comply with the attendance assurance responsibility, a truant officer may file a truancy petition with the state's attorney or in circuit court. Conviction of such an offense carries a maximum penalty of 30 days' imprisonment and a \$500 fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Ind. Code §§ 20-33-2-1 - 20-33-2-47

GENERAL SUMMARY: The compulsory school attendance law provides generally that each child who is at least 7 years of age and has not reached the age of 18 must attend either a public school or some other school which is taught in the English language, for the period of time each year during which the local public schools are in session. It is unlawful for a parent to fail to ensure that his or her child attends school as required.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to children in the affected age group, and to their parents, without regard to occupational classification or employment status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance law is enforced by the local school corporations, through attendance officers appointed for that purpose. Attendance officers are authorized to visit the homes of children who are absent from school and to visit workplaces where children are employed, to investigate suspected or reported violations of the law. At the direction or with the approval of the superintendent of schools, an attendance officer may bring suit in the appropriate court to enforce compliance with any provision of the compulsory attendance law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Student Services, Indiana Department of Education, Indianapolis, Indiana 46204 (317-232-6610). Among other functions under this law, the Department is authorized to set qualifications for local attendance officers and to design and maintain a system of attendance reports, records and forms necessary for enforcement of compulsory attendance.

Iowa

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Iowa Code §§ 299.1 – 299.24

GENERAL SUMMARY: Under Iowa's compulsory education law, a person who has control of a child over 6 and under 16 years of age, in proper physical and mental condition to attend school, must see that the child attends public school, or place the child under competent private instruction, during the school year set by the local school district.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provisions apply without regard to the occupational classification of the child or the child's parent or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the boards of directors of the local school corporations, through truancy officers and other attendance personnel. Truancy officers are authorized to take into custody without warrant any apparently truant child and to institute criminal misdemeanor proceedings against any person who has failed to assure the child's attendance as required.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Kan. Stat. §§ 72-1111 and 72-1113

GENERAL SUMMARY: With few exceptions, the compulsory school attendance law requires every parent or guardian having control of any child in Kansas who has reached the age of 7 years, but who is under the age of 18, to ensure that the child attends a public school for the duration of the prescribed school term, or a private, denominational or parochial school taught by a competent instructor for a substantially equivalent period of time.

PROVISIONS APPLICABLE TO AGRICULTURE: The school attendance provisions apply without regard to the occupational classification or employment status of the parent or child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced at the local level by the state's local school boards. Each school board must designate one or more attendance officers, who are responsible for monitoring compliance with the compulsory attendance law. Whenever a child under the age of 13 is not attending school as required, the local attendance officer generally must report the case to the Department for Children and Families for corrective action; cases of non-attendance by children 13 years of age and older are reported to the appropriate county or district attorney.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Kansas Department for Children and Families, Topeka, Kansas 66612 (785-296-3271).

Kentucky

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 159.010 - 159.270

GENERAL SUMMARY: With only limited exceptions, the compulsory attendance law requires each parent, guardian or other person residing in Kentucky and having charge of a child who is at least 6 years of age, but who has not reached the age of 18, to send the child to a regular public day school for the full term that the local public schools are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance requirement applies to every child in the affected age group who resides in Kentucky, and neither the child nor the person in charge of the child is excused from compliance or the penalties for non-compliance on the ground that the child's residence is seasonal or that the parent is a resident of another state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compulsory school attendance is monitored and enforced by each school district's Director of Pupil Personnel, who is vested with police powers comparable to those of peace officers and may investigate any case of non-attendance at school by any child of compulsory school age or suspected of being of that age. To check compliance with the school attendance provisions, pupil personnel directors are authorized to enter any premises where children are employed. In accordance with local school board policies, such officers may institute legal proceedings against any person violating the attendance law, after notice and opportunity for corrective action. Any parent, or any person standing in the place of a parent, who willfully fails to comply is subject to a fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: La. Rev. Stat. § 17:221 - 17:235.2

GENERAL SUMMARY: In general, every parent or other person residing in Louisiana and having control or charge of any child between the ages of 7 and 18 must send such child to a public or private day school and assure the child's attendance in regularly assigned classes during regular school hours established by the school board. Among other exceptions, 16- and 17-year-olds may withdraw from school to enroll in an alternative education program or vocational-technical education program, on application by their parent or legal guardian to the local school district.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law applies without respect to the employment status of the school-age child or the child's custodian. Children in the age range subject to compulsory school attendance may not be excused from school to work at any time in any job, including agriculture, even in the employ of their own parents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory school attendance provisions are enforced by parish and city school boards, and by district family or juvenile courts. Local attendance officers employed by their respective school boards are responsible for investigating cases of non-attendance and unexcused absences from school by all children within the affected age range.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Louisiana Department of Education, Baton Rouge, Louisiana 70804 (225-219-5172; toll-free 877-453-2721). The state superintendent of education has authority to appoint staff in the Department of Education whose primary responsibility is supervision and enforcement of the compulsory school attendance provisions.

Maine

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 20-A, §§ 5001-A - 5004

GENERAL SUMMARY: With certain exceptions, persons who are 7 years of age or older, but who are under the age of 17, must attend a public day school (or obtain state-approved equivalent instruction) during the time the school is in regular session. All adults having a child of compulsory school age under their control must assure the child's attendance at school.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law generally applies to children in the affected age bracket without regard to their employment status or occupational classification, or the status or classification of their parents or guardians.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by local school boards, under local rules filed with the state education commissioner. The district courts have jurisdiction over compulsory attendance offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Maine Department of Education, Augusta, Maine 04333 (207-624-6620). The Department is responsible for guiding local school boards in adopting their respective compulsory attendance rules.

Maryland

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Md. Code, Educ. § 7-301

GENERAL SUMMARY: Each child who resides in Maryland, and who is at least 5 years old but has not yet reached age 17 (age 18 beginning July 1, 2017), must regularly attend a public school during the entire school year, unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. Each person who has under his or her control a child of compulsory school attendance age must see that the child attends school or receives equivalent instruction as required.

Among other exceptions, a child under the age of 17 who provides financial support to his or her family, as documented by a local social services department, may be exempt from the compulsory attendance requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to children in the affected age range, without regard to the occupational classification of their parents or guardians.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory attendance law is enforced through the courts, by county boards of education, county school superintendents, and local law enforcement agencies. The law prescribes a fine of up to \$50 per day of unlawful absence, imprisonment for up to 10 days, or both fine and imprisonment, for any person convicted on a first offense of failing to assure the required school attendance of a child.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 76, §§ 1 - 21

RELATED REGULATIONS: 603 Mass. Code Regs. 8.02

GENERAL SUMMARY: With some exceptions, every child between the ages of 6 and 16 who resides in Massachusetts must attend a public day school, or receive approved equivalent private instruction, during the school year prescribed by the state board of education. Every person in control of a child of compulsory school attendance age must assure that the child attends school as required.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no agriculturally-related exceptions to the school attendance requirement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced in the courts, through local attendance supervisors employed by the respective school committees. The local schools are also responsible for issuance of employment permits, in many cases a prerequisite for the lawful employment of minors. Parents and guardians who fail to comply with their duty to assure the required school attendance of any child in their custody are subject to prosecution and fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

REVISED SCHOOL CODE (COMPULSORY SCHOOL ATTENDANCE)

STATUTORY CITATION: Mich. Comp. Laws §§ 380.1561 - 380.1599

GENERAL SUMMARY: With some exceptions, every parent, guardian or other person in Michigan having control or charge of a child from the age of 6 to the child's 16th birthday must send the child to a public school, or to a state-approved non-public school or home school that provides comparable instruction, during the entire school year.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory education provisions apply uniformly to children in the affected age group, with no exception for agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by school attendance officers and other local school personnel. If a parent or guardian fails to send a child to school as required, the attendance officer, on receiving notice of that fact from proper authority, must give written notice to the party responsible for the child's attendance, requiring the child to appear. Failure to comply with such a notice may result in a formal legal complaint against the responsible party. A violation is punishable by a fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Career and Technical Education, Michigan Department of Education, Lansing, Michigan 48909 (517-335-6041).

Minnesota

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Minn. Stat. §§ 120A.20 - 120A.38

GENERAL SUMMARY: Every child between 7 and 17 years of age must attend a qualified public or private school during the entire time the school is in session during the school year, unless the child has graduated or is excused from attendance by the local school board. It is the responsibility of the parent to assure the child acquires the knowledge and skills essential for effective citizenship.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment-related exceptions to compulsory school attendance by children in the affected age range.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory attendance laws are enforced by district school superintendents. Each superintendent is required to notify the parent, guardian or other person in charge of any child whose unexcused absence has been reported to the superintendent by a school attendance officer. If the child fails to attend following such notification, the superintendent must advise the county attorney of the facts of the case and file a criminal complaint against the party responsible for non-compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Miss. Code §§ 37-13-80 - 37-13-107

GENERAL SUMMARY: With only narrow exceptions, the Mississippi Compulsory School Attendance Law requires the parent, guardian or custodian of any child who reaches the age of 6 on or before September 1 of any year, but is under the age of 17 by that date, to enroll the child in a public school or a legitimate non-public school for the ensuing school year and assure the child's attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: Children of compulsory school age are required to attend school without regard to their own employment status or that of their parents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Compulsory School Attendance Enforcement, Mississippi Department of Education, Jackson, Mississippi 39205 (601-359-3178). The Compulsory School Attendance Law is enforced by school attendance officers employed and supervised by the Department. Attendance officers must investigate all cases of non-attendance and unlawful absences by compulsory-aged children not enrolled in a non-public school. When a school attendance officer has exhausted attempts to secure the attendance of a compulsory-school-age child, the attendance officer must file a report with the youth court, which has jurisdiction to enforce school and education laws. The youth court may order any public school to enroll or re-enroll any compulsory-school-age child after notice and hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Missouri

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 167.031 - 167.111

GENERAL SUMMARY: In general, every parent, guardian or other person in Missouri having custody or control of a child between the ages of 7 and 17 is responsible for assuring the child's regular attendance at a public, private, parochial, parish or home school, for the entire length of the school term. The upper age limit may be lowered to 16 by vote of the school board in any metropolitan school district.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment- or occupation-related exceptions to the school attendance requirement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The local school districts are responsible for enforcing the compulsory attendance law, through school attendance officers or comparable officials appointed for that purpose. Attendance officers are vested with the same enforcement powers exercised by deputy sheriffs in the performance of their duties, and hence are authorized to enter any place of employment, private business establishment or public property, inspect age and employment documents, and make arrests without warrant where truancy is in evidence. Parents, guardians and other individual custodians of children of compulsory school age who are not enrolled in school or fail to attend as required are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Commissioner of Education, Missouri Department of Elementary and Secondary Education, Jefferson City, Missouri 65101 (573-751-4212).

Montana

COMPULSORY ENROLLMENT AND ATTENDANCE LAW

STATUTORY CITATION: Mont. Code §§ 20-5-101 - 20-5-111

GENERAL SUMMARY: With few exceptions, any parent, guardian or other person responsible for the care of a child (1) who is 7 years of age or older, and (2) who has not reached the age of 16 and has not completed the 8th grade, must enroll the child in a public school or its prescribed equivalent and assure the child's attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: A parent's responsibility for assuring school enrollment and attendance by his or her child applies without regard to the employment status or occupational classification of the parent or the child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory enrollment and attendance provisions are enforced by the attendance officer or officers employed by each school district in the state. Attendance officers are vested with police powers, the authority to serve warrants, and the authority to enter workplaces where children are employed, in order to enforce compliance. When a child of compulsory school age is discovered not enrolled in or absent from school without a valid excuse, the child's parent or guardian must be notified of the legal consequences of failure to compel the child's attendance. Failure to comply will result in a

meeting with the parent or guardian to formulate a plan to resolve the truancy, and if compliance is still not forthcoming, the attendance officer may refer the matter to the local public attorney for possible prosecution. Conviction of the parent or guardian may result in a fine, an order to perform community service, or imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 79-201 - 79-210

GENERAL SUMMARY: Every person in Nebraska who has legal or actual control of a child who will reach the age of 6 by January 1 of the then-current school year, but who has not reached age 18, must ensure that the child enrolls and regularly attends an approved public, private, denominational or parochial day school each day the school is open and in session that year.

In addition to other, more narrow exemptions, the compulsory education requirement does not apply where the services or earnings of a child are necessary for the support of those actually dependent on the child, or for his or her own support, provided the child is at least 14 years old and has completed the 8th grade. This exception to the school attendance requirement, however, is contingent on (1) application by the child's parent or guardian for an employment permit from the local school superintendent, and (2) attendance by the child at a part-time continuation school, if available, for 8 hours a week during the entire school year.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to children of compulsory school age, and to their parents or guardians, without occupational distinctions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory education law is enforced by city and county school superintendents, through attendance officers employed for that purpose. Whenever a child's reported failure to attend school as required comes to the attention of the superintendent, and subsequent investigation confirms unlawful absence, the local attendance officer must try informally to correct the violation. Continued failure by the parent or guardian to send the child to school must be reported to the county attorney for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 392.040 - 392.220

GENERAL SUMMARY: Each parent, guardian or other person in Nevada having control or charge of any child between the ages of 7 and 18 years must send the child to a public school (or its equivalent) for the entire term during which the school is in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provisions apply to children in the affected age range without regard to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — This law is enforced by the boards of trustees of the state's local school districts, through school attendance officers and comparable officials. During school hours, attendance officers are authorized to take into custody, without warrant, any child of compulsory school age who has been reported by school personnel to be absent without a valid excuse. The school board must investigate all charges against parents and guardians for failure to assure required attendance, and whenever a violation is confirmed, the clerk of the board or the attendance officer must file a criminal complaint and see that the charge is prosecuted.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: N.H. Rev. Stat. §§ 193:1 - 193:8

GENERAL SUMMARY: With only narrow exceptions, every child who has reached the age of 6 on or before September 30 in a particular school year, but who is not yet 18, must attend a public or approved private school throughout the time the public schools are in session that year. Every person having custody of such a child must cause the child to attend school during the entire school year.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provisions apply without regard to the employment status or occupational classification of the child or the child's custodian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local school boards, which must formally advise parents and guardians of the requirements of the law in all suspected cases of non-compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

COMPULSORY EDUCATION LAWS

STATUTORY CITATION: N.J. Rev. Stat. §§ 18A:38-25 - 18A:38-36

GENERAL SUMMARY: Every parent, guardian or other person having custody and control of a child between the ages of 6 and 16 years must assure that the child regularly attends public school, or receives equivalent instruction, during the entire time the public schools in the local district are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment-related exceptions to the compulsory attendance provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory education laws are enforced by the local school districts, through attendance officers employed for that purpose, assisted by municipal and county law enforcement officers. Any such officer who finds a child between the ages of 6 and 16 who is truant is authorized to take the child into immediate custody and deliver the child to its parent, guardian or teacher. Parents of a truant child are initially given a warning concerning the consequences of non-compliance with the attendance provisions, willful or continued violation of which is punishable by a fine ranging from \$25 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: N.M. Stat. §§ 22-12-1 - 22-12-9

GENERAL SUMMARY: With certain exceptions, the Compulsory School Attendance Law requires every child who has reached the age of 5 prior to September 1 in a given school year, but who is not yet 18 and has not graduated from high school, to attend a public school, charter or private school, home school, or state institution for the duration of the school year. The parent, guardian or other person having custody and control of such child is responsible for the child's school attendance.

PROVISIONS APPLICABLE TO AGRICULTURE: The Compulsory School Attendance Law and its exceptions apply without regard to the occupational classification of children in the affected age range or the occupation of their parents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by the public school boards in New Mexico and by governing authorities of the state's charter and private schools. Parents and others in charge of children of compulsory school age who fail to attend school as required must be given written notice of the violation, after which continued non-compliance will be reported to the district probation services office. Knowingly allowing a student to continue to violate the Compulsory School Attendance Law renders the child's parent, guardian or custodian liable to compulsory community service, a fine, or a jail sentence.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

COMPULSORY EDUCATION LAW

STATUTORY CITATION: N.Y. Education Law §§ 3201 - 3234

GENERAL SUMMARY: Article 65, Part 1 of the state education statutes prescribes the age limits within which school attendance in New York is mandatory and restricts the employment of minors of compulsory school age.

PROVISIONS APPLICABLE TO AGRICULTURE

COMPULSORY ATTENDANCE — With only narrow exceptions not related to occupational classification, every minor from 6 to 16 years of age residing in any school district in the state must attend a public school or receive substantially equivalent full-time instruction.

PARENTAL RESPONSIBILITY — A person in parental relation to a child of compulsory school age is responsible for the child's attendance, regardless of the person's employment status or occupational classification.

EMPLOYMENT RESTRICTIONS — In general, no minor may be employed during the hours when attendance at school is required by the compulsory education provisions. Employment of a minor under 16 in work on a farm is prohibited at any other time as well, unless the child has been issued an employment certificate or farm work permit by the local school district. To obtain a farm work permit, the minor must present the issuing officer with evidence of age, the written consent of the minor's parent or guardian, and a certificate of physical fitness.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory attendance requirement is enforced by the local school districts, through attendance supervisors and comparable officers employed for that purpose. In performing their duties, attendance officers may enter any business establishment or other place where minors are employed, examine on demand the employment certificates or work permits of such workers, and otherwise ascertain if any such child is required to be in school. Attendance officers may arrest without warrant any minor unlawfully absent from school and, observing due process, see that charges are brought against the parent or other custodian responsible for the child's attendance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – New York State Education Department, Albany, New York 12234 (518-474-5844). The Department has supervisory control over local enforcement of the compulsory attendance provisions and is authorized to withhold one-half of all public school moneys from any district which fails to enforce them.

North Carolina

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: N.C. Gen. Stat. §§ 115C-378 - 115C-389

GENERAL SUMMARY: Every parent, guardian or other person in North Carolina having charge or control of a child between the ages of 7 and 16 years must assure the child's continuous attendance at an approved public or private school for the duration of the public school session.

PROVISIONS APPLICABLE TO AGRICULTURE: The parent's obligation to assure school attendance generally applies without regard to the employment status or occupational classification of either the parent or the child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory attendance law is enforced by the local schools, in conformity with rules established by the state board of education. When a child has accumulated 3 unexcused absences in a school year, the school principal must notify the child's parent or custodian of the child's excessive absences. After no more than 6 unexcused absences, the parent or guardian must be notified by mail of a possible violation of the law and the potential for prosecution if the absences cannot be justified. If, after 10 accumulated absences, school officials determine that the adult in charge has not made a good-faith effort to comply, they must refer the matter to the district attorney and county social services director. Violations are treated as Class 1 misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

SCHOOL ATTENDANCE LAW

STATUTORY CITATION: N.D. Cent. Code §§ 15.1-20-01 - 15.1-20-04

GENERAL SUMMARY: Every parent, guardian or other person who resides within a North Dakota school district and has control over a child between the ages of 7 and 16 not otherwise exempted from attendance must send the child to a public or approved non-public school for the entire length of the public school session.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where a child's employment has been found by the local school board to be necessary to the support of the family, the obligation to assure school attendance generally applies without regard to the employment status or occupational classification of the parent, guardian or child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory school attendance law is enforced by teachers and administrators of the local school districts. If, after investigation by a school administrator, the absence of a child in the affected age bracket cannot be legally justified by the child's custodian, the violation must be reported to local law enforcement authorities.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Ohio Rev. Code §§ 3321.01 - 3321.99

GENERAL SUMMARY: Every parent or custodian of any child between 6 and 18 years of age who is not employed under an age and schooling certificate must send the child to a school or special education program that meets minimum state standards, for the full time the school or program is in session. During the regular school term, an age and schooling certificate may be issued only to a child over the age of 16 who has satisfactorily completed a vocational or special education program adequate to prepare students for an occupation.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory education laws apply irrespective of the occupational classification of the child of compulsory school age or the child's parent or custodian. Neither the child nor the custodian is excused from these provisions on grounds that the child's residence in Ohio is seasonal, that the parent is a resident of another state, or that the child has attended school for the legal period in another state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — Compulsory attendance is enforced by the local school boards, through attendance officers employed for that purpose. Attendance officers may investigate any case of unexcused non-attendance by a child under 18, as reported by school personnel or discovered through routine workplace inspections. When a child is not attending school as required, the attendance officer must warn the child and the child's parent or custodian in writing of the legal consequences of truancy and require corrective action. The parent's failure to assure the child's attendance thereafter may result in a formal complaint against the parent in court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

OKLAHOMA SCHOOL CODE (COMPULSORY ATTENDANCE)

STATUTORY CITATION: Okla. Stat. Title 70, § 10-105

GENERAL SUMMARY: With few exceptions, it is unlawful for a parent, guardian or other person having control of a child who is over the age of 5 and under the age of 18, and who has not finished four years of high-school work, to neglect or refuse to compel the child to attend a public, private or other school, unless other means of education are provided for the full term the schools of the district are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance provision applies to children in the affected age group without regard to the employment status or occupational classification of their parents or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by local school attendance officers. Persons found in violation are subject to a criminal fine ranging from \$25 to \$250, imprisonment for from 5 to 15 days, or both a fine and imprisonment. Each day a child remains out of school after written or documented oral warning has been given to the parent or guardian constitutes a separate offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 339.010 - 339.095

GENERAL SUMMARY: In general, every child between the ages of 6 and 18 who has not completed the 12th grade must regularly attend a public full-time school in the district in which the child resides, or receive equivalent private or parochial school instruction. Every person having control of a child between 6 and 18 years of age who has not completed the 12th grade is responsible for the child's regular school attendance or instruction.

Under certain conditions, a child 16 or 17 years old who is lawfully employed full-time, or who is employed part-time and in an approved education program part-time, may be exempted from these requirements.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law applies to children in the affected age bracket and to their custodians without respect to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by attendance supervisors employed by the local school districts. When notified of a child's truancy or unexcused absence, the attendance supervisor must investigate and give formal written notice of the attendance requirements to the parent or other person responsible for the child. Continued failure to assure attendance may result in citation of the parent or custodian. Non-compliance is punishable as a Class C misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

■ PUBLIC SCHOOL CODE OF 1949 (COMPULSORY SCHOOL ATTENDANCE)

STATUTORY CITATION: 24 Pa. Stat. §§ 13-1326 - 13-1333

GENERAL SUMMARY: In general, every child residing in Pennsylvania who is at least 8 years old but not yet 17 is required to attend a day school in which the state-prescribed curriculum is taught in the English language. It is the legal responsibility of every parent, guardian or other person having control of a child of compulsory school age to send the child to such a school for the entire term during which the public schools where the child is living are in session. Among other exceptions, a child who has attained the age of 16 and is regularly employed under a valid employment certificate issued by the local school district is not required to attend school.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERAGE — Along with other children of compulsory school age who are members of farmworker households and not excused from compliance under the exceptions cited below, every migratory child between 8 and 17 years of age temporarily residing in Pennsylvania in connection with seasonal employment is subject to the compulsory school attendance provisions. The parent or other person in charge of such a child must assure the child's attendance during the entire time the local public schools are in session.

EXCEPTIONS — The compulsory attendance law does not apply to (1) any child 14 years of age who is employed in agriculture under a valid work permit issued by the local school district and who has satisfactorily completed the elementary grades, or (2) any child age 15 or over who is employed in farmwork under a work permit, regardless of educational attainment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory attendance requirements are enforced by the local school districts, through attendance officers employed for that purpose. Attendance officers are vested with full police powers and may enter any place where children are employed, inspect employment certificates and work permits, and arrest without warrant any child who fails to attend school in compliance with these provisions. A parent or person in parental relation to a child of compulsory school age who, after 3 days' written notice of a violation, fails to comply with his or her duty to assure the child's attendance is subject to a fine of \$300, completion of a parenting education program, or a jail term of up to 5 days.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: 3 Laws P.R. Ann. § 143b

GENERAL SUMMARY: With only narrow exceptions, all children between the ages of 5 and 18 must be enrolled in a public school located within a reasonable distance of their homes.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to every minor in the affected age bracket regardless of the occupational classification or employment status of the child or the child's parent or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory attendance law is enforced at the local level by teachers, supervising principals and social workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CHILD LABOR LAWS (COMPULSORY SCHOOL ATTENDANCE)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 450 - 456

GENERAL SUMMARY: Every parent or other person having charge of a minor under 16 years of age must assure the child's regular attendance at a public or private school during regular school hours and for the entire length of the public school term, unless the child is found to be mentally unfit to attend and is excused by the school supervisor.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to all minors under 16, regardless of the employment status or occupation of the minor or the child's parent or custodian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Local school officials are obligated to report to the Department the name of any enrolled minor under the age of 16 who has been absent from school for a week during any school month for the purpose of employment. If the child is unlawfully absent again after a written notice requiring attendance, legal action may be taken against the child's parent or guardian. Failing to cause a child to regularly attend, or inducing a child not to attend, in contravention of these provisions may result in a fine of up to \$50.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: 16 R.I. Gen. Laws §§ 16-19-1 - 16-19-10

GENERAL SUMMARY: With only narrow exceptions, every child in Rhode Island who has reached the age of 6 but is not yet 18 must regularly attend a public day school, an approved private school, or an approved course of at-home instruction during the days and hours the local public schools are in session. It is the legal duty of every person who has under his or her control a child between the ages of 6 and 18 to see that the child regularly attends school or its approved equivalent.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies without regard to the employment status or occupational classification of the child or the child's custodian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local public school committees, through truant officers appointed for that purpose. Truant officers are authorized to visit places of employment, inspect personnel records, and take other steps to ascertain compliance with the school attendance law. For any violation of the law, truant officers alone are empowered to file a complaint against the responsible party. Neglect of the duty to assure a child's attendance is punishable by a fine of up to \$50 per day for each day of unexcused absence. If non-compliance exceeds a cumulative total of 30 days, the penalty for conviction may include a fine of up to \$500 and 6 months' imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: S.C. Code §§ 59-65-10 - 59-65-90

GENERAL SUMMARY: All parents or guardians in South Carolina generally must see that their children or wards who are in the age group 5 to 16 years (inclusive) attend an approved public, private, parochial or denominational school, or an approved alternative educational program. Among other, more narrow exceptions, the law exempts from attendance any child who has completed the 8th grade and who is determined by a court to be legally and gainfully engaged in employment necessary for the maintenance of the child's household.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies without regard to the occupational classification of the child or the child's parent or guardian.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the board of trustees of each of the state's local school districts. If not remedied through the informal efforts of the district's attendance supervisor, non-attendance by a child in the affected age group may be reported by the board to the appropriate juvenile court. Any parent or guardian who neglects to enroll a child in school, or refuses to make the child attend as required, is subject to a fine of up to \$50 or a jail term of up to 30 days for each day the child remains absent.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Dakota

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: S.D. Codified Laws §§ 13-27-1 - 13-27-29

GENERAL SUMMARY: Every person having control of a child who is at least 6 years of age must assure that the child regularly attends some public or non-public school for the entire term during which the local public schools are in session, until the child has graduated or reaches the age of 18, unless the child is receiving approved alternative instruction for an equivalent period of time.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment-related exceptions to the compulsory school attendance law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local school boards, through truancy officers employed by each board for that purpose. In response to a report of a child's unexcused absence or irregular attendance, the truancy officer must investigate the circumstances of the case and may file a truancy complaint in court against the person responsible for the child's attendance where evidence of non-compliance is confirmed. A teacher, school officer or other person may also file a truancy complaint. The law prescribes misdemeanor criminal penalties for any such violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Tenn. Code §§ 49-6-3001 - 49-6-3051

GENERAL SUMMARY: With only narrow exceptions, every parent, guardian or other person residing in Tennessee and having control of a child between the ages of 6 and 17 (inclusive) must see that the child attends a public or non-public school.

PROVISIONS APPLICABLE TO AGRICULTURE: The obligation to assure school attendance applies to parents or custodians and their school-age children without regard to employment status or occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Sole authority for enforcing the compulsory attendance laws is vested in the local school districts. With respect to any child of compulsory school age who is not enrolled in school or who has been absent without valid excuse for a cumulative total of 5 days or more during the school year, the school superintendent or other authorized school official must serve written notice of the attendance requirements on the child's parent or custodian. Charges may be filed if the responsible party has not complied within 3 days thereafter. Violation of the compulsory attendance provisions is a Class C misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Tex. Educ. Code §§ 25.085 - 25.0951

GENERAL SUMMARY: Every child in Texas who has reached the age of 6 but has not yet reached the age of 19 is generally required to attend a public school each school day for the entire period the program of instruction is provided, or attend a private or parochial school whose curriculum includes good citizenship.

Among other narrow exceptions, the requirement to attend school does not apply to a child who (1) is at least 17 years old and has received a high school diploma or GED certificate, or (2) is at least 16 years old and is enrolled in an approved high school diploma program or GED preparation program.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to children in the affected age bracket without regard to employment status or occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school attendance officers appointed by the state's local school boards or superintendents, and by local peace officers. Attendance officers are authorized to investigate any case involving the non-enrollment or unexcused absence of a child of compulsory school age in their respective districts. If the parent or person standing in parental relation to such a child fails to see that the child attends school as required, the attendance officer must give a written warning to the child's parent or custodian. Criminally negligent failure to comply after a warning will lead to a complaint in county, justice or municipal court and, upon conviction, to a fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

COMPULSORY EDUCATION LAW

STATUTORY CITATION: Utah Code §§ 53A-11-101 – 53A-11-106

GENERAL SUMMARY: Any person having control of a minor between 6 and 18 years of age is required to send the minor to a public or regularly established private school — or request an exemption allowing the child to be home-schooled — during the school year of the district in which the minor resides. Among other exceptions, a local school board may partially excuse a minor over the age of 16 from attendance, to allow the child to enter employment or attend a trade school while attending school part-time, provided the child has completed the 8th grade.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to agricultural workers and their school-age children to the same extent as their non-farmworking counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by local boards of education. A public school administrator, truant officer, or peace officer may issue a notice of compulsory education violation if a child subject to the compulsory attendance law is absent from school without a valid excuse 5 or more times during the school year. It is a Class B misdemeanor for a parent or guardian of a school-age child, after being served with a notice of violation, to (1) fail to meet with school authorities to discuss the child's attendance problems, or (2) fail to prevent 5 or more unexcused absences during the remainder of the school year. The school board must report each case of a parent or guardian's non-compliance to the appropriate county or district attorney

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Vt. Stat. Title 16, §§ 1121 - 1129

GENERAL SUMMARY: Every person having control of a child between the ages of 6 and 16 must assure that the child attends a public school, an approved independent school or education program, or a home study program for the full number of days for which the school or program is held. Among other exceptions, a child who has completed the 10th grade is not subject to this requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory attendance law applies to all custodians of school-age children regardless of employment status or occupational classification, and to all school-age children regardless of residency status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by truant officers appointed by the local school boards, and by local peace officers deemed truant officers ex officio by the statute. The non-enrollment or unexcused absence of any child of compulsory school age will be investigated, and in the event the child is absent without valid cause, a written notice will be served on the person or persons in whose custody the child resides. Failure to comply with the attendance requirement thereafter may result in prosecution of the custodian, who is subject to a fine of up to \$1,000 upon conviction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Va. Code §§ 22.1-254 - 22.1-269.1

GENERAL SUMMARY: In general, every parent, guardian or other person in Virginia having control or charge of a child who has reached the age of 5 by September 30 in any school year, but who is not yet 18, must send the child to a public, private, denominational or parochial school, or have the child privately taught or tutored, during the entire period in which the public schools are in session, and for the same number of days and hours. However, the parents of a child who is 5 years old by September 30 may be excused from this requirement if they notify the appropriate local school board that they do not want the child to attend school until the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: The compulsory school attendance law applies to all persons having custody of a child in the affected age range, regardless of the employment status or occupational classification of the custodian or child.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced locally by school attendance officers appointed for that purpose by the local school boards. Attendance officers are required to investigate unexplained absence or non-enrollment of all children of compulsory school age within their respective districts, and whenever a child is found absent with no valid excuse for a total of 5 scheduled school days, the attendance officer must notify the child's parent or guardian of the attendance requirement and try to resolve the issues related to the child's non-attendance. Continued failure to comply with the law may result in a complaint to the juvenile and domestic relations court. Violation of the school attendance law is classified as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – State Board of Education, Virginia Department of Education, Richmond, Virginia 23218 (804-225-2924). It is the Board's duty to see that the compulsory attendance provisions are properly enforced throughout the state.

Washington

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 28A.225.005 - 28A.225.330

GENERAL SUMMARY: The parent or legal guardian of any child who is at least 8 years of age and under 18 must cause the child to attend a public school in the district in which the child resides, for the full length of the school term, unless the child is attending an approved private school or is receiving approved home-based instruction. Among other, more narrow exceptions, minors 16 years old and over who (1) have met certain educational competency requirements and (2) are regularly and lawfully employed with parental consent, are exempt from the compulsory attendance requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to the parents or legal custodians of children in the affected age group without regard to occupational classification.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — The compulsory school attendance law is enforced by the local school districts, through attendance officers and other school personnel appointed for that purpose. Attendance officers are authorized to enter all places where children may be employed, to take into custody any child of compulsory school age who is found truant, and to investigate the circumstances of unexplained absence or non-enrollment of such a child. If, after written notice to the parent or guardian and informal efforts to achieve compliance, a child continues to be absent from school without a valid excuse, a petition may be filed requesting juvenile court to assume jurisdiction. The person responsible for the child's attendance is subject to a fine of up to \$25 for each day of the child's unexcused absence from school.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

COMPULSORY SCHOOL ATTENDANCE LAW

STATUTORY CITATION: W. Va. Code §§ 18-8-1 - 18-8-12

GENERAL SUMMARY: Unless exempted, every child in West Virginia who has reached the age of 6 by September 1 in any school year, but who is not yet 17, is required to attend public school or receive equivalent instruction in an approved private or parochial school or at home. Anyone who, after due notice, fails to assure the attendance of a school-age child in his or her legal or actual custody is guilty of a misdemeanor.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no agriculturally related exceptions to the compulsory school attendance law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by county attendance directors employed for that purpose by the county boards of education. Attendance directors are obligated to investigate the circumstances of each reported instance of non-attendance by a child of compulsory school age, and attempt to resolve the causes of non-attendance. For each day in which a child is unlawfully out of school, the responsible party is subject to a fine of from \$50 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

COMPULSORY SCHOOL ATTENDANCE LAWS

STATUTORY CITATION: Wis. Stat. §§ 118.15 and 118.16

GENERAL SUMMARY: Any person having control of a child between the ages of 6 and 18 must see that the child regularly attends a public or private school for the full period and during all hours that the school is in session, until the child graduates from high school, until the end of the term in which the child reaches the age of 18, or unless the local school board excuses the child from attendance under one of several statutory exemptions from this requirement.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no categorical exceptions to compulsory school attendance by the children of agricultural workers or for reasons directly related to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — These provisions are enforced by school attendance officers designated by the local school boards. Attendance officers are authorized to visit any place of employment and any public or private school in their respective districts, to examine age and employment certificates, inspect attendance records, and conduct related enforcement activities. Before the end of the second school day after discovering or receiving a report of an unexcused absence by a child of compulsory school age, the attendance officer must give notice to the child's parent or guardian, directing return of the child to school no later than the next school day. Continued non-compliance with the law may lead to prosecution of the child's custodian and a fine, jail term, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

COMPULSORY ATTENDANCE LAW

STATUTORY CITATION: Wyo. Stat. §§ 21-4-101 – 21-4-107

GENERAL SUMMARY: With only narrow exceptions, every parent, guardian or other person having control or charge of any child who is a resident of Wyoming and at least 7 years of age on September 15 of any school year, but who has not reached the age of 16 or completed the 10th grade, is required to send the child to a public or private school that year for the entire time that the local public schools are in session.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no employment- or agriculture-related exceptions to the school attendance requirement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The compulsory attendance law is enforced by the boards of trustees of the state's local school districts, each of which must appoint one or more attendance officers for that specific purpose. On receipt of a report from a school official that a child of compulsory school age is unexcusedly absent, the attendance officer must give written notice of the attendance requirement to the child's parent, guardian or custodian. A second unexcused absence, if attributable to willful disregard of the attendance law, will result in a formal complaint against the child's custodian before a justice of the peace. Non-compliance under such circumstances is a misdemeanor, punishable by a fine of up to \$25, confinement in the county jail for up to 10 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alabama

○ WORKERS' COMPENSATION LAW (UNLAWFUL CHILD LABOR)

STATUTORY CITATION: Ala. Code 1975 § 25-5-34

GENERAL SUMMARY: In the case of the job-related injury of a minor employed in violation of or contrary to the state child labor law, the worker or the worker's beneficiaries are entitled to twice the amount of workers' compensation benefits otherwise payable if the worker had been legally employed.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law, and thus the double-compensation provision for unlawful child labor, does not apply to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

MINORS' MINIMUM WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-311 - 23-329

GENERAL SUMMARY: In response to a petition signed by 20 or more workers engaged in a particular occupation, the state industrial commission is required to investigate the wages being paid to workers under the age of 18 (other than part-time workers who are students) employed in that occupation. If the state agency determines that a substantial number of such minors are receiving wages that are less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health, the agency must appoint a wage board to gather additional evidence and recommend minimum fair wage standards for minors in that occupation. The state agency is then authorized to publish an interim minimum fair wage order, which becomes mandatory if no appeal has been filed after 60 days.

With few exceptions, employers subject to such an order must pay no less than the prescribed minimum fair wage to employees under 18 years of age, and minors paid less than the minimum wage are entitled to recover three times full pay figured at the minimum wage, plus court costs and attorney's fees, less the wages actually paid by the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: The authority of the administering agency to review and set minimum wage levels for minors does not apply to occupations in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Industrial Commission of Arizona, Phoenix, Arizona 85007.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

ARIZONA WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-901 – 23-1104

GENERAL SUMMARY: The Arizona workers' compensation statute declares the right of covered employees or their survivors to receive compensation for work-related injuries, illness or death, and defines the type and amount of benefits payable. In the case of an injured minor who is working at an age or at an occupation not legally permitted, the worker is entitled to additional compensation in an amount equal to 50 percent of the compensation the injured worker would otherwise receive.

PROVISIONS APPLICABLE TO AGRICULTURE: The provision requiring additional workers' compensation benefits for injured minors employed in violation of the state's child labor laws applies to agricultural workers and non-agricultural workers alike.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — When a farm operator or other agricultural establishment procures work to be done by a contractor over whose work the farm operator retains supervision and control, the contractor and the workers in the contractor's crew are regarded under the workers' compensation law as employees of the farm operator, who is therefore the party liable for coverage.

PRIMARY ENFORCEMENT AGENCY – Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661). The Commission is responsible for monitoring, regulating and adjudicating claims for compensation for work-related injuries, illnesses and death, and for processing and paying claims against uninsured employers. This agency is also authorized to assure compliance by employers subject to the financial liability this law imposes.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

PUBLIC HEALTH AND WELFARE LAWS (HAND HARVESTING BY CHILDREN)

STATUTORY CITATION: Ark. Code § 20-20-303

GENERAL SUMMARY: Chapter 20 of Arkansas' public health and welfare statutes includes a provision relevant to the employment of children in agriculture, and which appears to constitute another exception to the state child labor laws outlined above.

SPECIFIC TERMS AND CONDITIONS: A child 12 years of age or older may be employed to hand-harvest a short-season crop in Arkansas, provided that (1) school is not in session, (2) the employer has obtained the consent of the child's parents, (3) the employer has obtained an employment certificate issued by the state labor department, (4) any pesticide or other agricultural chemical used on the crop has been approved by the state health department as safe for the occupational exposure of 12- and 13-year-old hand harvesters, (5) any re-entry period set for the chemical by the health department has expired before the child is allowed to work, and (6) the chemical has been applied in compliance with the worker protection standards prescribed by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). This agency is responsible for issuing youth employment certificates in Arkansas, and for enforcing other provisions in the state's child labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Arkansas Department of Health, Little Rock, Arkansas 72205 (501-661-2000).* This agency is responsible for testing, approving and establishing safe re-entry periods for pesticide products used where 12- and 13-year-old children are to be employed in hand-harvest operations.

California

WORKERS' COMPENSATION ACT (ILLEGAL EMPLOYMENT OF MINORS)

STATUTORY CITATION: Cal. Lab. Code § 4557

GENERAL SUMMARY: With respect to the on-the-job injury of an employee under 16 years of age who is illegally employed at the time of injury, the employer is generally liable for 150 percent of the total compensation otherwise recoverable under the Workers' Compensation Act, unless the employer relied in good faith on reasonable evidence presented by the worker indicating that the worker was over the age of 15 at the time of hiring.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers are subject to the Act to the same extent as their counterparts in most non-agricultural industries. Hence, minors who are employed in farmwork in violation of the child labor laws at the time of an occupational injury are entitled to the additional compensation authorized by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100). This agency is responsible for receiving and processing workers' compensation claims, adjudicating workers' compensation appeals, and overseeing the payment of workers' compensation benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

→ WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Fla. Stat. § 440.54

GENERAL SUMMARY: When a worker injured on the job is found to have been a minor employed in violation of the state child labor law at the time of the injury, the state agency that administers the Workers' Compensation Law is authorized to award up to double the amount of compensation benefits otherwise payable to the injured worker or the worker's beneficiaries. The employer alone, not the insurance carrier, is liable for the increased compensation or death benefits under this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: Consistent with coverage provisions in the Workers' Compensation Law, injured minors unlawfully employed in agriculture at the time of injury are entitled to extra compensation only if they were employed by a farm operator that (1) employs 6 or more regular farm employees, (2) employs 12 or more seasonal farmworkers at any one time, (3) employs any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employs seasonal farmworkers for a cumulative period of more than 45 days in a calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609). This agency is responsible for receiving job injury reports from employers, processing claims for workers' compensation benefits, and assuring the payment of benefits to eligible injured workers or their dependents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

■ MARYLAND WORKERS' COMPENSATION ACT (ILLEGALLY EMPLOYED MINORS)

STATUTORY CITATION: Md. Code, Lab. & Empl. § 9-606

GENERAL SUMMARY: At the discretion of the state agency responsible for administration of the Workers' Compensation Act, all compensation and death benefits payable under the Act may be doubled in the event of the job-related injury of a minor who was illegally employed under the state child labor laws at the time of the injury. The employer alone is liable for the increased amount of compensation or benefits, and any insurance policy provision purporting to relieve an employer of the additional liability is void.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as Maryland's child labor laws contain only two limitations on the employment of minors in farmwork, the provision requiring employers to pay up to two times the normal amount of workers' compensation benefits for on-the-job injuries involving illegally employed youth would apply to farm operators and other farming establishments only if, at the time of the injury, the child was working during school hours or in an activity deemed hazardous.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Employment Standards Service, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for investigating possible violations of the state child labor laws, which may include employment in occupations regarded as hazardous to minors.

Massachusetts

WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Mass. Gen. Laws Ch. 152, § 28

GENERAL SUMMARY: The employment of any minor in violation of the state child labor laws is generally deemed serious and willful misconduct under the Massachusetts workers' compensation law. If such a minor is injured in the course of the job, the employer is liable for double the amount of compensation otherwise payable for the injury. Moreover, the employer is responsible for reimbursing his or her insurer for any extra compensation paid by the insurer for a claim in any such case.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employers in other sectors, agricultural employers who utilize unlawful child labor are subject to the double-compensation provision of the workers' compensation law, and any minor employed illegally in farmwork at the time of a work-related accident is generally entitled to twice the normal workers' compensation award for any compensable injury sustained.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249). The Department is responsible for assuring the payment of workers' compensation to employees who suffer compensable injury, including those minors who may be employed contrary to the child labor laws. In the event of a controversy over eligibility for compensation or the ongoing payment of benefits, the Department is charged with investigating the facts and rendering a final administrative decision, reviewable by the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

STATE LABOR LAWS (WORK AWAY FROM HOME LOCALITY)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.581 - 408.583

GENERAL SUMMARY: It is unlawful for any person or firm to offer inducements (including the promise of wages or other valuable consideration) to any child under 16 years of age to leave home for purposes of employment, without the prior written consent of the child's parents and the consent of the school attendance officer or comparable official at the home location. If such consent is obtained and the child accepts the recruitment offer, the child must be returned home safely upon the written request of his or her parents.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural and non-agricultural employment without distinction.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Mississippi

○ WORKERS' COMPENSATION LAW (MINORS ILLEGALLY EMPLOYED)

STATUTORY CITATION: Miss. Code § 71-3-107

GENERAL SUMMARY: Under the Workers' Compensation Law, a worker who is under 18 years of age and employed in violation of the state child labor laws at the time of a compensable job-related injury is generally entitled to double the amount of compensation otherwise payable for such injury. Furthermore, the employer alone, not the insurance carrier, is liable for the increased compensation.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as neither the child labor laws nor the Workers' Compensation Law is applicable to on-farm labor, the provision authorizing double compensation for unlawfully employed minors injured on the job does not apply to minors employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Mississippi Workers' Compensation Commission, Jackson, Mississippi 39216. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Missouri

O WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Mo. Rev. Stat. § 287.250.7

GENERAL SUMMARY: In any case in which a worker injured or killed on the job is found to have been a minor knowingly employed in violation of the state child labor laws at the time of the injury or death, the worker or the worker's beneficiaries are entitled to an additional 50 percent of the amount of workers' compensation benefits payable for the accident.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the Workers' Compensation Law excludes farm labor from coverage, the provision authorizing 11/2 times the normal benefit award in claims involving illegal child labor **does not apply** to minors employed as farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

New Jersey

WORKERS' COMPENSATION LAW (ILLEGALLY EMPLOYED MINORS)

STATUTORY CITATION: N.J. Rev. Stat. § 34:15-10

GENERAL SUMMARY: With respect to a workers' compensation claim for a compensable injury or occupational disease of a minor under 14 years of age who was employed at the time of the injury or disease in violation of the child labor laws, or a minor between the ages of 14 and 18 who was employed or allowed to work without a required employment certificate or special permit or in an occupation prohibited at the minor's age by law, the child or the child's dependents are entitled to twice the dollar amount of compensation or death benefits that would normally be payable for such injury or disease under the workers' compensation law.

The employer alone, not the insurance carrier, is liable for the extra compensation payable in such cases.

PROVISIONS APPLICABLE TO AGRICULTURE: The provision requiring double compensation for a compensable injury of a minor employed in violation of the child labor laws applies to agricultural employment under the same terms as in other industries subject to the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515). The Division is responsible for assuring compliance with the workers' compensation law by subject employers. In case of a disagreement over a claim for compensation or payment of benefits, the worker or the worker's dependents must submit the claim to the Division, which is the appropriate forum for adjudicating disputes concerning questions of fact, the nature and effect of the injury, and the amount of compensation payable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

→ WORKERS' COMPENSATION LAW (ILLEGALLY EMPLOYED MINORS)

STATUTORY CITATION: N.Y. Workers' Compensation Law § 14-A

GENERAL SUMMARY: Any minor who is injured in a job-related accident while employed in violation of the state child labor laws is entitled to receive double the amount of compensation benefits ordinarily payable under the Workers' Compensation Law. The first half of a double award is payable as a normal claim, but the second part must be paid personally by the employer, not the insurance carrier. Insurance to protect against the additional liability may not be purchased or sold.

In general, the Workers' Compensation Law applies to employers with one or more employees in any of 24 categories defined in the statute as hazardous.

PROVISIONS APPLICABLE TO AGRICULTURE: For the consecutive 12-month period beginning April 1 of any calendar year, a farm employer is subject to the Workers' Compensation Law, and is therefore liable for payment of double compensation for the injury or death of a child illegally employed, if the employer's expenditures for farm labor in the preceding year amounted to \$1,200 or more.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830). The Board is solely responsible for administration and enforcement of the workers' compensation program. Any dispute between the worker and an insurance carrier or employer regarding a compensation claim, including liability for double benefits under the child labor provision, should be referred to the Board.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). The state labor department is responsible for enforcing the age, hours and related employment standards that apply to child workers (see entry, New York — Child Labor — Age, Hours, and Related Standards).

North Carolina

© CRIMINAL LAWS (RECRUITING MINORS FOR OUT-OF-STATE EMPLOYMENT)

STATUTORY CITATION: N.C. Gen. Stat. § 14-40

GENERAL SUMMARY: Anyone who induces a minor to leave North Carolina for the purpose of employment, or employs and transports a minor out of the state, without the written consent of the parent, guardian or other person having authority over the child, is guilty of a misdemeanor punishable by a fine of up to \$1,000, a jail sentence of up to 6 months, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to all persons in the state and to all forms of employment, agricultural and non-agricultural alike.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by state and local law enforcement agencies, through prosecution in the criminal courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

STATUTORY CITATION: Ohio Rev. Code § 4123.89

GENERAL SUMMARY: When an injury, occupational disease or death of a worker under the age of 18 is found to have been caused by a hazard encountered on a job in which the worker was illegally employed under the child labor laws, the worker or the worker's surviving dependents are entitled to an additional award of compensation, equal to 100 percent of the maximum award established by law for the injury involved, over and above the amount otherwise payable. The fact that the claimant was employed in violation of the child labor laws is irrelevant to determining the compensability of the injury and may entitle the worker to double benefits.

If benefits are paid from the state workers' compensation fund, the employer's insurance premiums will be increased by an appropriate amount for a fixed period of time, to assure that the additional award is fully recouped by the fund.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies to virtually all agricultural employers in Ohio, on the same terms as employers in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292). Any minor who suffers a job-related injury, or disablement due to an occupational disease, may file a claim by mail, or online at www.bwc.ohio.gov/bwccommon/forms/froi/default.asp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

○ ADMINISTRATIVE WORKERS' COMPENSATION ACT (INJURY TO MINORS)

STATUTORY CITATION: Okla. Stat. Title 85A, § 48

GENERAL SUMMARY: In the case of the job-related injury or death of a minor employed in violation of or contrary to the state child labor laws, the worker or the worker's beneficiaries are entitled to twice the amount of disability or death benefits otherwise payable if the worker had been legally employed.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act — and hence the enhanced benefits for workers employed in violation of the child labor laws — **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

PUBLIC SCHOOL CODE OF 1949 (EMPLOYMENT OF CHILDREN)

STATUTORY CITATION: 24 Pa. Stat. §§ 13-1391 - 13-1394

GENERAL SUMMARY: The Public School Code includes provisions regulating the employment of children, generally without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT CERTIFICATES AND PERMITS — No one may employ or accept services from any child under the age of 18 during the hours when the public schools are in session, unless the employer has on file a general employment certificate, or a farm or domestic service permit, issued by the local school district.

REPORTING — Twice each year, every person, firm, association or corporation employing a child between the ages of 14 and 18 must submit to the school district where the child resides a written report showing the child's name, age, and place of residence, and the name of the child's parent or guardian.

POSTING — Anyone who employs a minor 14 to 18 years old during public school hours, and during the period of compulsory attendance in the local school district, must publicly post at the workplace a list of all such children, giving each child's name, age, place of residence, the name of the child's parent or guardian, the date of issuance of the employment certificate, and the name of the issuing party.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local school districts, officials of which are authorized to demand and inspect employment certificates and work permits held by employers utilizing child labor, and to examine the lists of employed minors required by law to be maintained at each workplace where minors are employed during school hours. The Public School Code prescribes criminal penalties for violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ WORKERS' COMPENSATION ACT (MINORS ILLEGALLY EMPLOYED)

STATUTORY CITATION: 77 Pa. Stat. § 672

GENERAL SUMMARY: The Workers' Compensation Act entitles any worker who, at the time of a compensable on-the-job injury, was under 18 years of age and was employed or permitted to work in violation of the state child labor laws, to collect 150 percent of the amount of compensation that would otherwise be payable if the minor had been legally employed. The employer and not the insurance carrier is liable for the additional compensation, and any provision in a workers' compensation policy undertaking to relieve an employer from such liability is void.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment which (1) pays at least \$1,200 to any one worker during the calendar year for agricultural labor, or (2) employs any one worker for at least 30 days of farm labor during the year, must protect all its employees with workers' compensation coverage and hence is liable for additional compensation for the injury or death of any minor unlawfully employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383). In its administering and enforcement roles under the Act, the Department must respond to the petition of any worker (including a minor employed contrary to the child labor laws) who requests a hearing and determination regarding workers' compensation which has not been paid in accordance with the law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT (RIGHTS OF MINORS)

STATUTORY CITATION: 11 Laws P.R. Ann. § 3(g)

GENERAL SUMMARY: In the case of a worker under 18 years of age who is employed in violation of the child labor laws and who suffers a compensable injury or contracts a compensable occupational disease, the Compensation System for Work-Related Accidents Act requires the payment of double the amount of compensation payable to a worker legally employed under otherwise identical circumstances. Furthermore, the employer rather than the State Insurance Fund is responsible for paying the additional compensation, the amount of which constitutes a lien against the employer's property.

PROVISIONS APPLICABLE TO AGRICULTURE: Minors unlawfully employed in agriculture at the time of an on-the-job injury are entitled to double compensation under this provision, on the same terms as similarly situated workers in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). Irrespective of the legality of the employment under the child labor laws, injury to a minor while employed should be reported to the employer, who is responsible for appropriate medical treatment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545). In response to an appeal, the Industrial Commission is authorized to review any decision by the State Insurance Fund which adversely affects a workers' compensation claimant.

Rhode Island

→ WORKERS' COMPENSATION ACT (ILLEGAL CHILD LABOR)

STATUTORY CITATION: 28 R.I. Gen. Laws § 28-33-22

GENERAL SUMMARY: Under the Workers' Compensation Act, an employee who is injured in a job-related accident, and who at the time of the injury was a minor employed in violation of a state or federal child labor provision, is entitled to 3 times the amount of compensation which would have been payable if the worker had been legally employed.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers and other agricultural employers who employ 25 or more farmworkers for 13 or more consecutive weeks are generally required to provide workers' compensation coverage to their employees, and thus would be subject to the requirement to pay triple compensation in connection with the job-related injury or death of a minor employed in violation of federal child labor laws. (As noted above, the state child labor provisions do not apply to minors employed in agricultural pursuits.)

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

● CIVIL RIGHTS ACT OF 1964 (TITLE VII)

STATUTORY CITATION: 42 USC 2000e - 2000e-17

RELATED REGULATIONS: 29 CFR Part 1601

GENERAL SUMMARY: Title VII of the Civil Rights Act of 1964 defines certain unlawful employment practices by employers, employment agencies, labor organizations and training programs, and establishes procedures for reporting and resolving employment discrimination complaints. The law generally applies to employers — agricultural and non-agricultural alike — who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year are prohibited from engaging in any of the following practices:

- (1) Refusing to hire a job applicant, harassing or discharging an employee, or otherwise discriminating against an individual with respect to compensation and other terms or conditions of employment, because of the individual's race, color, religion, national origin, or sex (including gender identity, sexual orientation, and pregnancy).
- (2) Segregating, limiting or classifying job applicants or employees in any way which would deprive or tend to deprive them of employment opportunities or adversely affect their job status, on the basis of race, color, religion, national origin, or sex.
- (3) Printing or publishing notices or advertisements indicating a preference or specification based on race, color, religion, national origin, or sex, except where such preference or specification is a bona fide occupational qualification for employment.

Comparable discriminatory practices by employment agencies and labor organizations are also unlawful.

COMPLAINT PROCEDURE — Anyone who is aggrieved by an apparent act of unlawful employment discrimination may file a charge with the enforcement agency, generally no later than 180 days after the alleged discrimination occurred. If the agency's investigation finds that there is reasonable cause to believe that the charge is true, the agency must attempt to eliminate the discriminatory practice through conference, conciliation and persuasion, but if informal measures do not result in an acceptable conciliation agreement, the agency may take legal action against the employer or other respondent named in the complaint in federal court. A finding by the court that an employer has intentionally engaged in unlawful employment discrimination under the Act may result in an order requiring the employer to cease the discriminatory practice and to take appropriate affirmative action, which may include hiring or reinstatement of the affected employee (with or without back pay) or other relief. In certain cases and under certain circumstances, the court may award monetary damages.

SPECIAL NOTES OR ADVISORIES

DEFERRAL OF ENFORCEMENT TO STATE OR LOCAL AGENCIES — In a state or locality which has a state or local law prohibiting unlawful employment practices and designating a state or local authority to enforce the prohibition, an employee may not file a charge with the Equal Employment Opportunity Commission until at least 60 days after filing the complaint with the state or local agency, or until action by the state or local agency is terminated, whichever occurs first.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee or job applicant because the employee or applicant has filed a complaint, participated in a proceeding, or opposed any practice made illegal under Title VII.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). The Commission is authorized to investigate charges of unlawful employment practices under the Act, take statements from employees and employers, conduct fact-finding conferences and hearings, subpoena witnesses and information, inspect and copy records, and bring civil actions against employers found to have violated the law. Complaints are taken at any district, area or local EEOC office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Commission may delegate primary responsibility for acting on civil rights complaints brought to its attention to any state or local fair employment practices agency which enforces anti-discrimination provisions similar to those described under this law and which meets certain other criteria. Puerto Rico and all states except Arkansas and Mississippi have statewide or local agencies to which EEOC will defer all or certain types of charges under the Act.

PRIVATE CIVIL ACTION — If a complaint filed with the Commission is dismissed, or the Commission has not reached an acceptable conciliation agreement with or taken legal action against the respondent named in the complaint within certain specified timeframes, the Commission may provide the complainant with a notice of the right to sue. At any time within 90 days after the notice is given, the complainant may file suit against the respondent in civil court directly, using a private attorney or a public legal service provider.

Alaska

STATE HUMAN RIGHTS LAW

STATUTORY CITATION: Alaska Stat. §§ 18.80.010 – 18.80.300

GENERAL SUMMARY: Alaska's health, safety and housing statutes include provisions which prohibit discrimination in employment on the basis of race, religion, color, national origin, physical or mental disability, sex, age, marital status, changes in marital status, pregnancy or parenthood, and declare it a civil right to obtain employment without such discrimination. Among other illegal employment practices, employers may not refuse to hire and may not discriminate against a person in pay or other conditions of employment on the above-mentioned grounds when the reasonable demands of the job do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy or parenthood.

The law also makes it unlawful to print or circulate job announcements, advertisements or applications which express any sort of limitation, specification or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color or national origin, unless based on a bona fide occupational qualification.

It is illegal to employ a female at a salary or wage rate less than that paid to a male employee for work of comparable character, or work in the same occupation, business or type of work in the same locality.

Employers and others subject to these provisions are required to maintain records on age, sex and race necessary for enforcement of the anti-discrimination laws.

PROVISIONS APPLICABLE TO AGRICULTURE: Like most other classes of employers in Alaska, farm operators and other agricultural establishments with one or more employees in the state must observe the proscriptions against discrimination in employment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against a person because the person has opposed a discriminatory practice or has filed a complaint or participated in a proceeding under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Alaska State Commission for Human Rights, Anchorage, Alaska 99501 (800-478-4692). Any person subjected to or alleging employment discrimination may file a complaint with the Commission, which is obligated to investigate such allegations promptly and impartially. The agency's staff must first try to resolve confirmed cases of discrimination by conference, conciliation and persuasion. Cases that cannot be resolved by Commission staff may be presented to the Commission, which may issue formal compliance orders, including the award of back pay. Any such order may be enforced by the state courts upon the filing of a complaint by the Commission. Penalties for willful violations include a fine, jail sentence, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state human rights law authorizes municipalities to establish local human rights commissions and to grant such bodies powers and duties similar to those exercised by the state commission. PRIVATE CIVIL ACTION — As an alternative to filing an administrative complaint, a worker aggrieved by an apparent act of illegal employment discrimination may take legal action against the employer directly, using a private attorney or a public legal service provider.

Arizona

ARIZONA CIVIL RIGHTS ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 41-1401 - 41-1493.04

GENERAL SUMMARY: The Arizona Civil Rights Act prohibits, among other things, employment discrimination because of race, color, religion, sex, age, national origin, disability, or genetic testing results. The Act generally applies to agricultural employers and employees to the same extent as their non-agricultural counterparts.

SPECIFIC TERMS AND CONDITIONS

COVERAGE — With few exceptions, employers that have 15 or more employees for each working day in 20 or more different calendar weeks in the current or preceding calendar year are subject to the Act. Notably, the prohibition against sexual harassment applies to employers with *one or more* employees in the current or preceding calendar year.

PROHIBITED PRACTICES — Unlawful practices in which subject employers may not engage include, among others, (1) firing an employee, or failing or refusing to hire a job applicant, because of the employee's or applicant's race, color, religion, sex, age over 40 years, national origin, disability, or genetic testing results, (2) discriminating on any of the above-specified grounds with respect to an individual's compensation, terms, conditions or privileges of employment, (3) limiting, segregating or classifying employees or job applicants based on any of the above-specified grounds, in any way which would tend to curtail job opportunities or otherwise adversely affect employment status, and (4) failing or refusing to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified employee or applicant unless the employer can demonstrate that the accommodation would impose an undue burden.

Employers are also prohibited from discriminating against employees and job applicants because the employee or applicant has opposed any prohibited employment practice, or has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing involving an alleged prohibited employment practice.

Workers are also protected against similar unlawful employment practices by employment agencies (which can include farm labor contractors), and by labor organizations with 15 or more members. The Act describes circumstances under which hiring, classification or referral of employees or job applicants on the grounds of religion, sex or national origin may be permissible where such grounds are bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise.

COMPLAINTS — A charge of employment discrimination under the Act must be filed with the state enforcement agency within 180 days after the alleged unlawful employment practice occurred. If, after investigation, there is reasonable cause to believe a charge is valid, the agency must attempt to correct the problem by informal methods of conference, conciliation and persuasion. If no such resolution has been reached within 30 days after the finding of reasonable cause, the agency may bring civil court action against the employer or other entity named in the charge.

PRIMARY ENFORCEMENT AGENCY – Civil Rights Division, Office of the Attorney General, Phoenix, Arizona 85007 (877-491-5742). The Division is authorized to examine personnel records, subpoena witnesses and documents, hold hearings, and take related measures to enforce compliance with the Arizona Civil Rights Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If a complaint is dismissed by the Division, or if the Division has not filed civil action against or entered into a conciliation agreement with the employer or other entity involved within 90 days after filing of the complaint, the Division must so notify the worker; within 90 days thereafter, the worker may file a private suit to enforce compliance. Whether brought by the Division or by the complainant, court action under the Act must commence no later than one year after the alleged violation.

Arkansas

ARKANSAS CIVIL RIGHTS ACT OF 1993

STATUTORY CITATION: Ark. Code §§ 16-123-101 - 16-123-108

GENERAL SUMMARY: Among others to whom this law applies, an employer who employs 9 or more workers in Arkansas in each of 20 or more calendar weeks in the current or preceding year is liable for damages if the employer (1) deprives a person of his or her rights under the state constitution, (2) intimidates, harasses or commits violence against the person where the act is motivated by racial, religious or ethnic animosity, or (3) commits an act of employment discrimination against a person on the basis of race, religion, national origin, gender, or the presence of any sensory, mental or physical disability.

PROVISIONS APPLICABLE TO AGRICULTURE: The Arkansas Civil Rights Act protects farmworkers to the same extent as employees in any other industry.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal to intimidate, threaten, coerce, interfere with, or discriminate against an individual because he or she, in good faith, has filed a complaint under this law, testified or participated in any other way in a related investigation or hearing, or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The Arkansas Civil Rights Act can be enforced only through civil action in state court, using a private attorney or public legal service provider. Depending on the facts of the case, the aggrieved party may be entitled to collect compensatory and punitive damages, as well as court costs and attorney's fees.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

STATUTORY CITATION: Cal. Gov. Code §§ 12900-12996

GENERAL SUMMARY: The California Fair Employment and Housing Act is intended to safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The Act, among other provisions, defines certain unlawful employment practices and prescribes remedies which will help eliminate discrimination by subject employers, implicitly including farm operators and other agricultural entities.

SPECIFIC TERMS AND CONDITIONS: With few exceptions, every employer in the state regularly employing 5 or more workers is subject to the Act. It is an unlawful employment practice, unless based on a bona fide occupational qualification, for such an employer, because of any individual's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, or military and veteran status, to refuse to hire or employ the individual, or to discriminate against the individual with respect to compensation or other terms and conditions of employment. Similarly, except under specified and very limited circumstances, it is unlawful for a subject employer to refuse to hire, or to fire or demote, any individual over the age of 40 on the basis of age.

The Act establishes comparable proscriptions against employment discrimination by employment agencies and labor organizations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – California Department of Fair Employment and Housing, Elk Grove, California 95758 (916-478-7251). In exercise of its enforcement responsibility under the Act, the Department is authorized to receive and investigate complaints of employment discrimination, to issue subpoenas, and to interrogate witnesses. Any person aggrieved by alleged unlawful discrimination on the job may file a written complaint with the Department, which is required to try promptly to eliminate any confirmed unlawful employment practice by conference, conciliation and persuasion. If this process fails to effectuate compliance, the Department may file a civil action in court. In general, a complaint under this law must be filed within one year of the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Fair Employment and Housing Council, Department of Fair Employment and Housing, Elk Grove, California 95758 (916-478-7248). The Council is responsible for issuing regulations that interpret and apply the provisions of the Fair Employment and Housing Act, and for conducting hearings and issuing rulings on formal charges brought by the Department of Fair Employment and Housing.

PRIVATE CIVIL ACTION — If an accusation is not issued within 150 days after filing of a complaint, or the Department determines that no accusation will be issued, the complainant may bring civil action in superior court against the employer or other entity alleged to have violated the Act.

Colorado

CIVIL RIGHTS LAWS

STATUTORY CITATION: Colo. Rev. Stat. §§ 24-34-301 - 24-34-406

GENERAL SUMMARY: The state civil rights statutes define certain unfair employment practices and establish a process for accepting and responding to complaints involving job-related discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE

UNFAIR EMPLOYMENT PRACTICES — As for most other classes of employers, it is unlawful for a farm operator or other agricultural establishment to refuse to hire, to fire, to promote or demote, or to discriminate in the payment of wages against any otherwise-qualified person because of disability, race, creed, color, sex, pregnancy, sexual orientation (including transgender status), religion, age (over 40), national origin, ancestry, or marriage to a co-worker. Retaliation by an employer against a worker because the worker opposed a discriminatory practice, or participated in an employment discrimination proceeding, is also regarded as an unfair employment practice and therefore illegal.

Employment agencies and labor organizations are barred from similar acts of discrimination.

COMPLAINTS — Anyone who believes he or she has been discriminated against by an employer, employment agency or labor organization on any of the grounds listed above may file a complaint with the enforcement agency, within 6 months after the alleged discriminatory or unfair employment practice occurred. After the filing of a complaint, the agency's staff must notify the respondent of the charges, and if both the complainant and the respondent agree to the process, proceed to alternative dispute resolution is declined or is unsuccessful, the agency must undertake an investigation of the charge and will issue a finding of either "probable cause" or "no probable cause," which is then either confirmed or scheduled for appeal by the Colorado Civil Rights Commission. Remedies may include, among others, hiring, reinstatement or upgrading, with or without back pay.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Colorado Civil Rights Division, Colorado Department of Regulatory Agencies, Denver, Colorado 80202 (303-894-2997; toll-free 800-262-4845). The Civil Rights Division is responsible for receiving, investigating and deciding the merits of charges alleging unfair or discriminatory employment practices in violation of these provisions. Depending on the circumstances of the case, an employer found to have violated these provisions may be liable for the payment of back pay, compensatory and punitive damages, attorney's fees and court costs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If a complaint is dismissed by the Division, the agency must so notify the worker; within 90 days thereafter, the worker may file a private suit to enforce compliance, using a private attorney or public legal service provider. In most cases, no such private civil action may be filed without first exhausting the proceedings and remedies available through the Civil Rights Division.

Connecticut

STATE HUMAN RIGHTS LAWS

STATUTORY CITATION: Conn. Gen. Stat. §§ 46a-51 - 46a-125

GENERAL SUMMARY: The state human rights laws describe certain discriminatory employment practices which are declared unlawful, and establish administrative and judicial procedures for reporting and resolving complaints of discriminatory practices. The fair employment provisions apply to all employers in the state — including farm operators and other agricultural establishments — that employ 3 or more workers.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED EMPLOYMENT PRACTICES — Except in the case of a bona fide occupational qualification or need, it is unlawful for any employer with 3 or more employees to, among other acts, refuse to hire or employ an individual, to bar or discharge an individual from employment, or to discriminate against an individual in compensation or in terms or conditions of employment, because of the individual's race, color, religious creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, or physical disability. Among many other prohibited acts, employers are barred from terminating a woman's employment because of her pregnancy, or refusing to grant her a reasonable leave of absence for disability due to her pregnancy. Employment opportunities generally may not be restrictively advertised so as to discriminate against potential applicants on any of the above-mentioned grounds. Comparable acts of employment discrimination on these grounds by employment agencies and labor organizations are also forbidden.

COMPLAINT PROCEDURE — Anyone claiming to be aggrieved by an alleged discriminatory employment practice may file a written complaint with the enforcement agency. Any such complaint must be filed within 180 days after the alleged act of discrimination occurred. Complaints may be dismissed without investigation by the state agency, but if the agency investigates and finds reasonable cause to believe that a discriminatory practice has been or is being committed, steps must be taken to eliminate the practice through conference, conciliation and persuasion. A formal hearing will be held when such efforts fail, culminating in either (1) a cease-and-desist order and compensatory relief, such as back pay and compensatory damages, or (2) dismissal. A formal hearing will also be held on complaints processed through the agency's early legal intervention program.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for a subject employer, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Commission on Human Rights and Opportunities, Hartford, Connecticut 06106 (860-541-3400). The Commission is responsible for receiving and responding to discriminatory practice complaints, and consequently may investigate, hold hearings, subpoena witnesses and documents, and issue compliance orders. Workers who have been adversely affected by a violation of these provisions may file an employment discrimination complaint by contacting the nearest regional office of the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker may obtain a release from the Commission and take legal action against the employer in state court directly if (1) a complaint has been filed with the Commission and is still pending 180 or more days after filing, (2) the worker and employer agree to the release, even if the complaint has been pending less than 180 days, or (3) the worker requests and the Commission completes an expedited case review. The civil action must be filed within 90 days after receipt of the release and generally brought within 2 years after the date the complaint was filed.

Delaware

O DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Del. Code Title 19, §§ 710-719A

GENERAL SUMMARY: Delaware's Discrimination in Employment Act makes it unlawful for an employer who is subject to the Act to refuse to hire, to discharge, or to otherwise discriminate against a person with respect to wages or the terms and conditions of employment, because of the person's race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identify, or national origin.

Similar prohibitions against employment discrimination apply to employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: The Discrimination in Employment Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

FLORIDA CIVIL RIGHTS ACT OF 1992

STATUTORY CITATION: Fla. Stat. §§ 760.01-760.11 and § 509.092

GENERAL SUMMARY: The Florida Civil Rights Act is intended to eliminate discrimination on grounds of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. Among other provisions, the Act lists certain employment practices which are declared unlawful for employers that employ 15 or more workers in each of 20 or more calendar weeks during the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

To the same extent as in non-agricultural industries, farm operators and other agricultural establishments that employ 15 or more workers for each working day in each of 20 or more calendar weeks in the current or preceding calendar year are generally prohibited from engaging in discriminatory employment practices, including, among others, the following:

- (1) Firing an employee, or failing or refusing to hire a job applicant, because of the individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.
- (2) Discriminating on such grounds against an employee or job applicant with respect to compensation or the terms, conditions or privileges of employment.
- (3) Limiting, segregating or classifying employees or job applicants on the same grounds in any way which would tend to deprive them of employment opportunities or adversely affect their employment status.

(4) Publishing or distributing any advertisement or notice relating to employment which indicates any preference, limitation, specification or discrimination based on race, color, religion, sex, pregnancy, national origin, age, absence of handicap, or marital status.

The law prohibits similar practices by employment agencies and labor organizations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for an employer, employment agency or labor organization to discharge, discipline or discriminate in any manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Florida Commission on Human Relations, Tallahassee, Florida 32399 (850-488-7082; toll-free 800-342-8170). The Commission is responsible for receiving and acting on complaints by workers alleging any discriminatory employment practice defined in the Act. The Commission may investigate and hold hearings on any such complaint to determine the facts, may subpoena witnesses and records, and may provide affirmative relief, including reinstatement, back pay and attorney's fees, to victims of discriminatory employment practices. Any person aggrieved by an unlawful employment practice under the Act may file a complaint with the Commission within 365 days of the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Upon investigation of a complaint, if the Commission determines that there is reasonable cause to believe that a violation of the Act has occurred, the complainant may bring civil action against the employer or other entity directly, using a private attorney or public legal service provider.

Georgia

GEORGIA EQUAL EMPLOYMENT FOR PERSONS WITH DISABILITIES CODE

STATUTORY CITATION: Ga. Code §§ 34-6A-1 - 34-6A-6

GENERAL SUMMARY: This law generally prohibits employers with 15 or more employees from refusing to hire, from firing, or from otherwise discriminating against a person with a disability, with respect to wages, rates of pay, hours or other terms and conditions of employment because of the person's disability. An employer may, however, make job-related inquiries about the existence of the disability of an applicant and may reject the applicant if the disability would interfere with the person's ability to adequately perform assigned job duties.

PROVISIONS APPLICABLE TO AGRICULTURE: The Georgia Equal Employment for Persons with Disabilities Code applies to employers with 15 or more employees, without distinction between agricultural and non-agricultural occupations and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An individual with a disability who has been subjected to employment discrimination on account of his or her disability may file a complaint in civil court against the employer, using a private attorney or public legal service provider. Any such complaint must be filed within 180 days after the alleged incident occurred.

Hawaii

STATE LABOR LAWS (DISCRIMINATORY PRACTICES)

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-1 - 378-10

GENERAL SUMMARY: Part I of the employment practice provisions in the state labor laws prohibits employment discrimination on the basis of race, sex (including gender identity or expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status, and establishes a process for the receipt and resolution of discrimination complaints by aggrieved employees. These provisions apply to virtually all employers in Hawaii, including farm or plantation operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL PRACTICES — Employers are prohibited from refusing to hire, discharging from employment, or otherwise discriminating against anyone in compensation or in the terms, conditions or privileges of employment, because of race, sex (including gender identity or expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status. Comparable acts of discrimination by employment agencies and labor organizations are also illegal. Employers and employment agencies are forbidden from printing or circulating any statement or advertisement, and from using any form of job application, which expresses or implies any limitation, specification or discrimination on these same grounds.

EQUAL PAY — Employers are prohibited from discriminating between employees because of sex, by paying wages to employees in an establishment at a rate less than the rate at which the same employer pays employees of the opposite sex for equal work on jobs requiring equal skill, effort and responsibility and performed under similar working conditions. Among very few other exceptions, payment differentials resulting from a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a bona fide occupational qualification do not violate this prohibition.

COMPLAINTS — Anyone claiming to be aggrieved by an alleged unlawful discriminatory practice may file a written complaint with the state enforcement agency. The complaint must be filed within 180 days after the alleged practice occurred and must contain the name and address of the employer or other entity alleged to have committed the practice complained of, details of the grievance, and other information prescribed by the state agency. If, after investigation, there is reasonable cause to believe there has been a violation of the law, the agency must attempt to eliminate the alleged practice by informal methods. If the respondent fails or refuses to agree to conciliation, the agency may issue an appropriate order, including hiring, reinstatement, upgrading or other measures, with or without back pay. The state may also exercise its authority to take legal action against the offending party in civil court.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for an employer, employment agency or labor organization to discharge, expel or otherwise discriminate or retaliate against a person because the person has filed a complaint, testified or assisted in any proceeding under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Hawaii Civil Rights Commission, Honolulu, Hawaii 96813 (808-586-8636). The Commission has authority to receive, investigate and conciliate complaints of unlawful employment discrimination, and to examine records, documents and other material evidence and take other steps relevant to determining whether or not a violation has occurred. The Commission may order appropriate legal action when a violation is found.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — On request to the Commission, any worker who has been subjected to employment discrimination contrary to these provisions has the right to sue the employer or other party alleged to be responsible for the violation in a private civil action.

Idaho

HUMAN RIGHTS LAW

STATUTORY CITATION: Idaho Code §§ 67-5901 – 67-5912 RELATED REGULATIONS: Idaho Admin. Code R. 45.01.01

GENERAL SUMMARY: The state human rights law outlaws, among other practices, certain specified acts of employment discrimination based on race, color, religion, sex, national origin, age or disability. The law also authorizes creation of the Idaho Commission on Human Rights and establishes procedures for reporting and resolving discrimination complaints.

PROVISIONS APPLICABLE TO AGRICULTURE

PROHIBITED ACTS — As in any other industry in Idaho, an agricultural employer who has 5 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year is forbidden from discriminating in employment against anyone on the basis of race, color, religion, sex, national origin, age or disability. Employment discrimination on these grounds includes (1) failing or refusing to hire a job applicant, (2) firing an employee, and (3) discriminating against an individual with respect to compensation or the terms, conditions or privileges of employment. Comparable acts of discrimination by employment agencies and labor organizations are also prohibited.

LIMITATIONS — It is not regarded as a discriminatory practice for an employer, employment agency or labor organization to distinguish between employees, job applicants or members on the basis of religion, sex, national origin, or age if religion, sex, national origin or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Similarly, an employer, employment agency or labor organization may observe the terms of a bona fide seniority system or employee benefit plan as long as the system or plan is not a subterfuge to evade the law's anti-discrimination purposes. Likewise, the prohibition against discrimination because of disability does not apply if the particular disability prevents the performance of the work required in that job. Too, the age discrimination protection applies only to individuals who are at least 40 years of age.

COMPLAINT PROCEDURES — Anyone who believes he or she has been subjected to unlawful discrimination under these provisions may file a complaint with the state enforcement agency within one year of the alleged unlawful discrimination. Agency staff must attempt to resolve the complaint informally prior to determining if there are reasonable grounds to believe a discriminatory act has occurred. Failing informal resolution, the agency must continue its investigation, and on a finding of reasonable grounds to believe an unlawful practice has occurred which cannot be eliminated by further informal methods, the agency may bring civil action seeking appropriate relief. Any civil action taken by the state agency must commence no later than one year after the complaint is filed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – *Idaho Commission on Human Rights, Boise, Idaho 83735 (208-334-2664).* The Commission is responsible for accepting and acting on complaints filed by persons alleging employment discrimination, as outlined above. In a civil action brought by the Commission on behalf of a complainant, a finding by the court that unlawful discrimination has occurred may result in one or more appropriate remedies, including a cease-and-desist order, an order to employ, reinstate or promote the victim of the act, an order for actual damages such as lost wages and benefits, or an order for punitive damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who alleges unlawful employment discrimination under the human rights law may, through private legal counsel or a public legal service provider, file an action in state district court on his or her own behalf, provided that the complaint is first filed with the Human Rights Commission and that the Commission issues a formal notice of dismissal of the complaint. A civil action by the complainant may not be filed any later than 90 days after the Commission's dismissal notice.

Illinois

ILLINOIS HUMAN RIGHTS ACT

STATUTORY CITATION: 775 Ill. Comp. Stat. §§ 5/1-101 - 5/10-104

GENERAL SUMMARY: Among numerous other protections, the Illinois Human Rights Act forbids employment discrimination on the basis of race, color, religion, national origin, ancestry, age, sex, marital status, order-of-protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. The Act establishes procedures under which aggrieved individuals may file charges and procedures to process such charges.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as their counterparts in non-agricultural sectors, agricultural employers who have 15 or more employees in Illinois during 20 or more calendar weeks within the current or preceding calendar year are subject to the employment provisions of the Human Rights Act. With respect to an alleged violation based on a worker's physical or mental disability, the Act applies to any employer with one or more employees for any length of time.

CIVIL RIGHTS VIOLATIONS — It is a civil rights violation for any covered employer to refuse to hire a job applicant, to segregate an employee, or to otherwise discriminate with respect to terms and conditions of employment on the basis of an applicant's or employee's race, color, religion, national origin, ancestry, age, sex, marital status, order-of-protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. Comparable acts committed by employment agencies and labor organizations are also unlawful.

LANGUAGE — It is also considered a civil rights violation for an employer to impose a restriction that has the effect of prohibiting a language from being spoken by an employee in communications that are unrelated to the employee's duties.

SEXUAL HARASSMENT — It is a civil rights violation for any covered employer (1) to engage in sexual harassment against an employee, or (2) to permit sexual harassment of an employee by any non-employee or by a non-managerial or non-supervisory employee without taking reasonable corrective measures.

APPLICANT'S ARREST RECORD — In general, it is a civil rights violation for an employer to inquire on a written job application whether an applicant has ever been arrested.

EXCEPTIONS — Among other exceptions, the Act does not prohibit employers from hiring or selecting between persons on the basis of bona fide occupational qualifications, or from applying different standards of compensation or different employment conditions pursuant to a merit or retirement system, provided the system is not used to evade the anti-discrimination purposes of the law.

COMPLAINTS — An individual who has been subjected to employment discrimination under the Act has 180 days to file charges with the Department. After the party alleged to have committed the violation has been notified, the Department must conduct a full investigation of the charges. If the report of findings reveals substantial evidence of a violation, the Department must attempt to resolve the charges through conciliation. If the Department does not act within 365 days from the time charges are filed by a complainant, the complainant has 90 days thereafter to file a complaint with the Illinois Human Rights Commission or commence civil action in circuit court.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is a civil rights violation for an employer or anyone else to retaliate against a person because the person has opposed unlawful discrimination or sexual harassment, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Illinois Department of Human Rights, Chicago, Illinois 60601 (312-814-6200).* The Department has exclusive jurisdiction to investigate complaints under the Illinois Human Rights Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Illinois Human Rights Commission, Chicago, Illinois 60601* (312-814-6269). In addition to other functions under the Act, the Commission is responsible for hearing all complaints formally filed by the Department of Human Rights. The Commission is empowered to grant such relief and impose such penalties as are authorized in the Act, including back pay, reinstatement, attorney's fees, actual damages and other measures. Decisions by the Commission are enforceable in the state courts.

Indiana

INDIANA CIVIL RIGHTS LAW

STATUTORY CITATION: Ind. Code §§ 22-9-1-1 - 22-9-1-18

GENERAL SUMMARY: The Indiana Civil Rights Law forbids, among other practices, employment discrimination based on race, religion, color, sex, disability, national origin, ancestry, or veteran status. The law generally applies to any employer in the state — including an agricultural establishment — that has 6 or more employees.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL ACTS — Employers are prohibited from practicing employment discrimination by (1) excluding a person from equal employment opportunities because of race, religion, color, sex, disability, national origin, ancestry, or veteran status, (2) failing to employ an applicant on the basis of the applicant's race, religion, color, sex, disability, national origin, ancestry, or veteran status, (3) failing to reasonably accommodate an employee with a disability, (4) failing to accommodate an employee for bona fide religious practices, or (5) creating or failing to take corrective action to address a hostile work environment or quid-pro-quo sexual harassment. Comparable acts of employment discrimination by employment agencies and labor organizations are also forbidden.

EXCEPTIONS — It is not unlawful for an employer to hire employees, for an employment agency to classify or refer job applicants, or for a labor organization to classify its membership or refer any member for employment, on the basis of sex in those instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise involved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Civil Rights Commission, Indianapolis, Indiana 46204 (317-232-2600; toll-free 800-628-2909). The Commission may receive written complaints of violations of the Civil Rights Law and will conduct a full investigation of the facts surrounding the complaint. At the completion of the investigation, a determination is issued indicating whether or not there is cause to believe discrimination has occurred. The complaint must be filed within 180 days from the date of the occurrence of the alleged discriminatory practice. The Commission may hold hearings, subpoena witnesses and documents, and take testimony. If the Commission finds that a person has engaged in unlawful discrimination, it may take appropriate remedial action, including issuance of an order that the offending party cease and desist from the discriminatory practice and restore the complainant's losses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers have the right to enforce the Civil Rights Law in court rather than through administrative action by the Civil Rights Commission. However, both the employee and the employer involved in the complaint must agree in writing to have the matter decided in court.

EMPLOYMENT DISCRIMINATION AGAINST DISABLED PERSONS LAW

STATUTORY CITATION: Ind. Code §§ 22-9-5-1 - 22-9-5-27

RELATED REGULATIONS: 910 Ind. Admin. Code §§ 3-3-1 - 3-3-18

GENERAL SUMMARY: Chapter 5 of the state civil rights laws makes it unlawful for an employer with at least 15 employees for each working day in 20 or more calendar weeks this year or last to discriminate against a qualified individual with a disability, on the basis of the individual's disability, in regard to job application procedures, hiring, advancement, firing, training, or other terms and conditions of employment. Similar prohibitions apply to employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to agricultural employers and protects agricultural workers to the same extent as employers and employees in other industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful to discriminate against a person for having made a complaint, testified, participated in an investigation, or exercised any other right provided by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Civil Rights Commission, Indianapolis, Indiana 46204 (317-232-2600; toll-free 800-628-2909).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

IOWA CIVIL RIGHTS ACT OF 1965

STATUTORY CITATION: Iowa Code §§ 216.1 – 216.21

RELATED REGULATIONS: Iowa Admin. Code 161.1.1 - 161.15.3

GENERAL SUMMARY: The Iowa Civil Rights Act defines certain unfair employment practices which, among other forms of discriminatory activity, are declared unlawful. The Act's employment discrimination provisions generally apply to all employers who regularly employ 4 or more individuals, without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Among other discriminatory practices, it is illegal for any employer who regularly employs 4 or more workers to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate in employment because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of the applicant or employee, unless such action is based on the nature of the occupation. Comparable acts of discrimination by employment agencies and labor organizations are also prohibited.

Employers, employment agencies and labor organizations may not, through advertising or in any other manner, indicate that individuals of any particular age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability are unwelcome, objectionable, not acceptable or not solicited for employment or membership, unless such qualification is based on the nature of the occupation.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory employment practice may file a written complaint with the state agency, no later than 300 days after the alleged practice occurred. After notifying the respondent, the state agency staff must make a prompt investigation and issue a recommendation on the case to an agency hearing officer. If the hearing officer concurs that probable cause exists regarding the allegation, the staff must try to eliminate the discrimination or unfair practice informally. Failure to resolve the matter within 30 days thereafter will lead to a formal hearing by the state agency, which may order binding remedial action by the employer if it finds that a violation has in fact occurred.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Iowa Civil Rights Commission, Des Moines, Iowa 50319 (515-281-4121; toll-free 800-457-4416).* The Commission is charged with receiving, investigating and determining the merits of complaints alleging unfair or discriminatory practices.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After 60 days following the timely filing of a complaint, the complainant may request a right-to-sue letter from the Commission and file a private civil suit for relief in state district court, using a private attorney or a public legal service provider. However, the Commission is barred from issuing a right-to-sue letter if, on the date of the request, (1) the Commission has issued a finding of "no probable cause," (2) a conciliation agreement has been entered into, (3) the Commission has served a notice of hearing on the respondent, or (4) the complaint has been administratively closed and 2 years have elapsed since the date of closure. In all cases, private civil action must commence within 90 days after the right-to-sue letter is mailed, and once a letter is issued, the Commission is barred from further action on the complaint.

Kansas

KANSAS ACT AGAINST DISCRIMINATION

STATUTORY CITATION: Kan. Stat. §§ 44-1001 - 44-1044

GENERAL SUMMARY: The Kansas Act Against Discrimination is intended, in part, to eliminate and prevent discrimination in employment relations, by declaring various employment practices unlawful and establishing a state commission to investigate and resolve discrimination complaints. The Act generally applies to individuals and for-profit businesses with 4 or more employees, regardless of industry.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal for a farm operator or any other employer with 4 or more workers to refuse to hire a job applicant, to discharge an employee, to segregate or make other distinctions between applicants or employees, or to discriminate in any other manner against such individuals on the basis of race, religion, color, sex, disability, national origin, or ancestry, without a valid business motive. Furthermore, it is unlawful for an employer to circulate any advertisement or statement, or to use any form of job application, which expresses any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin, or ancestry. Any comparable practice engaged in by an employment agency or labor organization is also prohibited.

COMPLAINTS — Anyone claiming to have suffered discriminatory treatment outlawed under the Act may file a written complaint with the state enforcement agency, provided the complaint is filed within 6 months of the alleged violation. The agency must notify the alleged violator of the charges within 7 days and investigate the charges thereafter. If probable cause exists for crediting the allegations of the complaint, the agency has 45 days from the date of such a determination to eliminate the unlawful practice by informal conciliation. A formal hearing will be held in the event a conciliation agreement is not reached within that timeframe. Upon consideration of the evidence presented at the hearing, the agency may issue a cease-and-desist order if the charges are proven and may award compensation for any wage losses suffered by the complainant. An order for restitution may include hiring, reinstatement or upgrading, with or without back pay, as well as an award of up to \$2,000 as damages for pain, suffering and humiliation.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206). The Commission must respond to any properly filed complaint of discrimination and may also pursue charges on its own initiative. Representatives of this agency are authorized to inspect written employment documentation, interview employers and employees, subpoena documents and witnesses, hold hearings and take testimony. The Commission or, at the Commission's request, the state attorney general or a county or district attorney may secure enforcement of any final order of the Commission in state court. Any employer, or any agent of an employment agency or labor organization, who violates a Commission order is subject to fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Whenever the Commission closes a case and the complainant is not satisfied with the outcome, the complainant may take civil action against the employer or other respondent involved directly, using a private attorney or a public legal service provider.

Kentucky

CIVIL RIGHTS LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 344.010 - 344.990

GENERAL SUMMARY: The Kentucky civil rights law seeks to safeguard individuals in the state against discrimination because of race, color, religion, national origin, sex, age, disability, and smoking status. The law's anti-discrimination provisions apply to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal for any employer who has 8 or more employees in Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to compensation or other terms, conditions or privileges of employment, because of the individual's race, color, religion, national origin, sex, or age (over 40), or because the individual is a smoker or non-smoker.

Similar discriminatory practices against a worker based on the worker's disability are unlawful when committed by an employer who is engaged in any industry affecting commerce and who has 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year.

Comparable discriminatory acts by employment agencies and labor organizations are likewise prohibited.

EXCEPTIONS — The law does not preclude certain job referral, hiring, employment or membership practices by employers, employment agencies or labor organizations which make distinctions on the basis of religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification necessary to the normal operation of the particular business or enterprise. Similarly, it is not unlawful to apply different standards of compensation, or different terms or conditions of employment, pursuant to a bona fide seniority or merit system, or any other personnel system, as long as such differences are not intended to discriminate on the basis of race, color, religion, national origin, sex, age or disability.

COMPLAINTS — Anyone claiming to have been subjected to a discriminatory employment practice may file a written complaint with the state enforcement agency, at any time within 180 days after the occurrence of the alleged unlawful practice. If the state agency staff finds probable cause to believe the complaint is valid, the staff must attempt to reach an agreement with the offending party to eliminate the practice through conciliation. If no such agreement is reached within 60 days of the filing of the complaint, the state agency may summon the respondent to a hearing to answer the allegation, and if the hearing confirms a violation of the civil rights law, the agency may issue an order for corrective action. The agency's order may include restitution, in the form of hiring, reinstatement or promotion, with or without back pay, as well as payment of damages to the complainant.

SPECIAL NOTES OR ADVISORIES

PREEMPTION OF JURISDICTION — The Commission is barred from taking jurisdiction over any claim of discrimination under the state civil rights law while a claim by the same person seeking relief for the same grievance is pending in state circuit court. Conversely, a state court may not consider any claim of an unlawful practice under the civil rights law while a claim by the same person seeking relief for the same grievance is pending before the Commission. A final determination by a state court or the Commission precludes any other action or proceeding brought by the same person based on the same grievance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Enforcement Branch, Kentucky Commission on Human Rights, Louisville, Kentucky 40202 (502-595-4024; toll-free 800-292-5566). For the purpose of enforcing compliance with the state civil rights law, representatives of the Commission have authority to enter places of employment, review personnel records, interview employees, hold hearings, and take sworn testimony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Except as limited by the preemption provision noted above, a worker aggrieved by an unlawful act of employment discrimination by an employer subject to these provisions may take civil court action against the alleged violator directly, by consulting a private attorney or public legal service provider.

Louisiana

LOUISIANA EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:301 – 23:369

GENERAL SUMMARY: Chapter 3-A of the state labor laws contains, among other provisions, prohibitions against employment discrimination on the basis of race, color, religion, sex, national origin, age (over 40), disability, sickle cell trait, or protected genetic information. In general, it is illegal for an employer in Louisiana to refuse to hire, to fire, or to intentionally discriminate against an individual with respect to wages or the terms and conditions of employment on any of the grounds listed above. Likewise, no employer may discipline or fire a veteran for taking time away from work to attend medical appointments required to receive veterans benefits.

These provisions apply to all employers in the state who employ 20 or more workers for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

In addition to the protected categories listed above, Chapter 3-A also generally prohibits employers with more than 25 employees for each working day in 20 or more calendar weeks from refusing to promote a female employee because of pregnancy or childbirth, or from denying such an employee the same benefits and employment privileges granted other employees.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural workers to the same extent as they do to workers in non-agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Louisiana Commission on Human Rights, Office of the Governor, Baton Rouge, Louisiana 94094 (225-342-6969). Among other functions, the Commission is charged with receiving, investigating, seeking to conciliate, and deciding on complaints of employment discrimination under these provisions. A worker who believes he or she has been subjected to a prohibited act may file a complaint with the Commission within 180 days after the alleged unlawful practice occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any parish or municipality, or one or more parishes and municipalities acting jointly, may create a local human rights commission, and as such may receive and process complaints of employment discrimination prohibited by these provisions. Within their respective jurisdictions, local commissions have enforcement authority comparable to the state Commission on Human Rights. Likewise, the state Commission may enter into a cooperative agreement with any local commission that has professional staff and enforceable ordinances, orders, or resolutions. Currently, the cities of New Orleans and Alexandria are the only local commissions in that category.

PRIVATE CIVIL ACTION — A worker who has been subjected to unlawful employment discrimination may file suit in the district court for the parish in which the alleged discrimination occurred, seeking general or special compensatory damages, back pay, related benefits, reinstatement, reasonable attorney's fees and court costs. In general, a civil action cannot be filed any earlier than one year after the discrimination occurred, and the worker must give the employer involved at least 30 days' notice before filing.

Maine

MAINE HUMAN RIGHTS ACT

STATUTORY CITATION: Me. Rev. Stat. Title 5, §§ 4551 – 4634

GENERAL SUMMARY: The Maine Human Rights Act contains fair employment provisions which generally guarantee each individual's opportunity to secure employment without discrimination because of race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, or national origin. The Act applies to virtually all employment in the state, other than services performed for nonprofit religious and fraternal organizations.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT DISCRIMINATION — Except where based on a bona fide occupational qualification, it is regarded as unlawful discrimination for an employer to refuse to hire or to otherwise discriminate against any job applicant because of the applicant's race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, national origin, or previous assertion of a workers' compensation claim or exercise of a right under the Workers' Compensation Act. Likewise, an employer may not discharge an employee or discriminate against an employee with respect to hire, tenure, promotion, transfer, compensation, privileges of employment, or any other matter directly or indirectly related to employment, on grounds of race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, or national origin. The use of an employment agency which the employer knows or has reason to believe discriminates against individuals on these grounds is also illegal.

Employment agencies and labor organizations are prohibited from engaging in similar acts of discrimination on these same grounds.

COMPLAINTS — Any person who has been subjected to unlawful employment discrimination may file a complaint with the state enforcement agency. To be considered timely, the complaint must be filed within 300 days after the alleged act took place. If a preliminary investigation of the matter finds reasonable grounds to believe unlawful discrimination has occurred, the state agency normally must take steps to try to eliminate the violation through conference, conciliation and persuasion. The agency may file a civil action in superior court if informal efforts do not result in a conciliation agreement signed by the parties to the complaint.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal to discriminate in any way against an individual because the person has opposed an act or practice that is unlawful under this law, or because the person filed a complaint, testified, or participated in an investigation, proceeding or hearing under the law. Likewise, an employer is prohibited from coercing, intimidating or threatening an employee for exercising the employee's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maine Human Rights Commission, Augusta, Maine 04333 (207-624-6290). The Commission is charged with enforcement of all provisions of the Human Rights Act, and in that role may hold hearings, subpoena witnesses and records, and take other appropriate measures to investigate and resolve reported or suspected illegal discrimination. The Commission is empowered to seek court-ordered money penalties and other relief for any violation of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If, within 180 days of filing a complaint with the Human Rights Commission, the Commission has not filed a civil action or entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter and take legal action against the alleged offender directly, using a private attorney or a public legal service provider. However, civil action must be commenced not more than 2 years after the discriminatory act occurred, and no monetary damages or attorney's fees may be awarded to the plaintiff unless the complaint is first filed with the state Human Rights Commission and the agency either dismisses the case or fails, within 90 days after a finding of reasonable grounds, to enter into a conciliation agreement.

Maryland

HUMAN RELATIONS LAW

STATUTORY CITATION: Md. Code, State Gov. §§ 20-101 - 20-1203

GENERAL SUMMARY: Title 20 of the State Government Code outlaws, among other practices, discrimination in employment and establishes a state civil rights commission to enforce compliance. The employment discrimination provisions generally apply to all employers in the state — agricultural and non-agricultural — who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Subject employers are prohibited from engaging in any of the following unlawful employment practices, among others:

- (1) Refusing to hire a job applicant, discharging an employee, or otherwise discriminating against any individual with respect to compensation or the terms, conditions or privileges of employment, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability unrelated in nature or extent so as to reasonably preclude performance of the job.
- (2) Limiting, segregating or classifying employees or job applicants, on the same grounds, in any way which would tend to deprive them of employment opportunities or otherwise adversely affect their status as employees.
- (3) Publishing any employment notice or advertisement indicating any preference, limitation, specification or discrimination based on race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability (except where religion, sex, age, national origin, marital status, or disability is a bona fide occupational qualification for employment).

Comparable discriminatory acts by employment agencies and labor organizations are also illegal.

COMPLAINTS — Anyone claiming to be aggrieved by an act of employment discrimination may file a complaint with the state enforcement agency, within 6 months from the date of occurrence; the complaint must be in writing and signed by the complainant. The state agency staff must promptly investigate the facts of the case, and when there is probable cause to believe a discriminatory act has been committed, the staff is required to attempt an informal resolution of the violation through conciliation.

If the agency finds probable cause and conciliation efforts fail, either party may elect to have the case heard by an administrative law judge or in civil court. If the complaint is sustained, the state agency or court may issue an order requiring the respondent to cease and desist from the discriminatory practice and to take affirmative corrective action, which may include reinstatement or hiring, with or without back pay. Victims of employment discrimination are also eligible for monetary damages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maryland Commission on Civil Rights, Baltimore, Maryland 21202 (410-767-8600; toll-free 800-637-6247). In its enforcement role under the human relations law, the Commission may examine employers' personnel records, question employees, subpoena documents and witnesses, and take sworn testimony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If a worker has filed a timely administrative charge or complaint alleging an unlawful employment practice and at least 180 days have elapsed since the complaint was filed, the worker may take action against the employer involved in civil court, using a private attorney or public legal service provider. Any such civil action, however, must be filed no later than 2 years after the unlawful employment practice occurred.

Massachusetts

STATE CIVIL RIGHTS LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 151B, §§ 1 - 10

GENERAL SUMMARY: The state's primary civil rights law prohibits, among other unlawful activities, employment discrimination on the basis of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, age, or military service. The law is generally applicable to for-profit employers with 6 or more employees, without regard to their agricultural or non-agricultural status.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Employers are forbidden, on the grounds of an individual's race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, or ancestry, from discharging from employment or refusing to hire the individual, or from discriminating against the individual in compensation or in the terms, conditions or privileges of employment, unless such treatment is based on a bona fide occupational qualification. Moreover, it is unlawful for any employer in the private sector to fire, refuse to hire, or otherwise discriminate against a person who is at least 40 years old, because of the person's age. Similar discriminatory acts based on a worker's military service are also prohibited.

Any statement, advertisement, publication or job application printed, circulated or used by an employer or employment agency which directly or indirectly expresses any limitations, specification or discrimination as to race, color, religious creed, national origin, sex, gender identity, sexual orientation, age, genetic information, ancestry, or the handicap of a qualified handicapped person is likewise illegal, unless based on a bona fide occupational qualification.

COMPLAINTS — Anyone claiming to have suffered from an act of employment discrimination outlawed by these provisions may file a complaint with the state enforcement agency at any time within 300 days after the act occurred. If the state agency, after prompt investigation, finds probable cause for crediting the allegations, the agency must try to eliminate the unlawful practice involved through conference, conciliation and persuasion. A formal hearing must be called whenever efforts at informal resolution are unsuccessful, and the agency may order the violating party to cease and desist if evidence presented at the hearing sustains the belief that a violation has, in fact, occurred. The law also authorizes the state agency to order affirmative relief (including hiring, reinstatement, promotion or similar action, with or without back pay) upon a finding that a respondent has engaged in an unlawful practice.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal to intimidate, threaten, coerce, interfere with, or discriminate against an individual because he or she has filed a complaint under this law, testified or participated in any other way in a related investigation or hearing, or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Commission Against Discrimination, Boston, Massachusetts 02108 (617-994-6000). The Commission is responsible for investigating and resolving unlawful employment practice charges under these provisions, as described above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any person aggrieved by an unlawful employment practice may, at the expiration of 90 days after filing a complaint with the Commission, file a civil lawsuit for damages, injunctive relief, or both. The petitioner must notify the Commission of any such action, and any complaint before the Commission will be dismissed, barring any future complaint before the Commission on the same matter. No private civil action may be filed later than 3 years after the alleged unlawful practice occurred.

Michigan

ELLIOTT-LARSEN CIVIL RIGHTS ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 37.2101 – 37.2804

GENERAL SUMMARY: Among other proscriptions, the Elliott-Larsen Civil Rights Act prohibits discrimination on the job because of religion, race, color, national origin, age, sex, height, weight, or marital status. The employment discrimination provisions apply to every agricultural and non-agricultural employer with one or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is illegal for an employer to engage in any of the following practices:

- (1) To refuse to recruit or hire, to discharge, or to discriminate in any other manner against an individual with respect to employment, compensation, or a term, condition or privilege of employment, on the basis of religion, race, color, national origin, age, sex, height, weight, or marital status.
- (2) To limit, segregate or classify an employee or job applicant on any such grounds in a way which tends to deprive the person of a job opportunity or otherwise adversely affect employment.
- (3) To segregate, classify or otherwise discriminate against a person on the basis of sex with respect to a term, condition or privilege of employment, including an employee benefit plan.

(4) To publish or circulate any advertisement or other employment-related notice, or use any job application form, which indicates a preference, limitation or specification based on religion, race, color, national origin, age, sex, height, weight, or marital status.

Employers are also forbidden from requesting information, or making any record, regarding the arrest or detention of a job applicant or employee which did not result in a conviction.

Comparable discriminatory acts committed by employment agencies and labor organizations are similarly prohibited.

EXCEPTION — Where religion, national origin, age, height, weight or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, an employer, employment agency or labor organization may use such a qualification, but if an exemption is not obtained in advance from the state enforcement agency, the burden of establishing the necessity of the qualification is on the employer, employment agency or labor organization which uses it.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Michigan Department of Civil Rights, Lansing, Michigan 48933 (517-335-3165; toll-free 800-482-3604).* The Act places the Department in charge of receiving, investigating, holding hearings on, and resolving complaints alleging violations. Upon the filing of a complaint, the Department must conduct an initial investigation, then either dismiss the complaint or attempt to eliminate the discriminatory practice or act determined to have been committed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Michigan Civil Rights Commission, Lansing, Michigan 48933* (517-335-3165; toll-free 800-482-3604). Failure by the Department of Civil Rights to resolve a violation through conciliation will lead to a formal charge by the Department against the violator. The Civil Rights Commission, after a hearing on the charge, must either dismiss it or issue a final order requiring the respondent to cease and desist and to take appropriate corrective action. PRIVATE CIVIL ACTION — Concurrently with any administrative enforcement action, a worker may bring suit against the alleged violator directly, through legal counsel of the complainant's own choosing. Civil action for injunctive relief and damages may be brought in the circuit court for the county where the alleged violation occurred, or where the person or firm against whom the complaint is filed resides or has its primary place of business.

Minnesota

MINNESOTA HUMAN RIGHTS ACT

STATUTORY CITATION: Minn. Stat. §§ 363A.01 - 363A.44

GENERAL SUMMARY: The Minnesota Human Rights Act prohibits unfair discriminatory practices in employment, as well as in other settings, and creates a state agency to receive and resolve complaints of violations. In general, the Act's employment provisions apply to every agricultural and non-agricultural employer with one or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Except when based on a bona fide occupational qualification, it is unlawful:

- (1) For an employer, because of race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, age, or membership or activity in a local human rights commission, (a) to refuse to hire a job applicant, (b) to maintain an employment system which excludes a person seeking employment, (c) to discharge an employee, or (d) to discriminate against a person with respect to hiring, tenure, compensation, or the terms, conditions, facilities or privileges of employment.
- (2) For an employer, before a person is hired, (a) to require the person to furnish information pertaining to race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, or age, except for national security or affirmative action purposes, or (b) to print or publish an employment-related notice or advertisement that discloses a preference, limitation, specification or discrimination based on race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, or age.

Comparable acts committed by employment agencies and labor organizations are also illegal.

COMPLAINTS — Anyone aggrieved by an apparently illegal act of employment discrimination may file a charge with the state enforcement agency, but to be considered timely, a charge must be filed within one year after the occurrence of the alleged violation. After the charge is sent to the respondent, the state agency may contact the parties to arrange for voluntary mediation, and if the matter is not settled through mediation, the agency will conduct a neutral investigation of the charge. The state agency generally has one year in which to determine whether or not there is probable cause to credit the allegation.

In the event the agency finds no probable cause, the complainant may appeal the decision within 10 calendar days. If the process results in a finding of probable cause, the agency will attempt to settle the matter through conciliation, but if the parties cannot agree on a settlement, the state attorney general may argue the case before an administrative law judge. A decision by the ALJ in favor of the complainant may result in an order against the employer for corrective action and civil money penalties, plus compensatory and punitive damages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Minnesota Department of Human Rights, St. Paul, Minnesota 55155 (651-539-1100; toll-free 800-657-3704). Among other functions, the Department is designated to receive and investigate charges alleging unfair discriminatory practices, and to attempt to resolve cases of confirmed discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – In lieu of action through the state agency but subject to the same one-year time limitation, a charge of unlawful employment discrimination may be filed with a county, city or other local human rights commission created pursuant to law. Importantly, however, exercise of the worker's option to file a charge with one agency precludes filing the same charge with the other.

PRIVATE CIVIL ACTION — A worker who has suffered from an unlawful employment practice under the Act may bring suit seeking redress directly to district court, using a private attorney or public legal service provider. If the worker has filed a charge with the Department of Human Rights, private civil action may be filed only (a) within 45 days after receipt of a notice from the Department that the complaint has been dismissed, or (b) after 45 days from the filing of a charge if a hearing on the charge has not been held or a conciliation agreement has not been reached between the Department and the respondent.

Missouri

• HUMAN RIGHTS LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 213.010 - 213.137

GENERAL SUMMARY: The state human rights law includes provisions which forbid employment discrimination on the basis of race, color, religion, national origin, sex, ancestry, age or disability, and establishes a state-administered mechanism for resolving related complaints. The law generally applies to all employers, both agricultural and non-agricultural, who have 6 or more employees.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal for a subject employer to commit any of the following discriminatory acts, among others:

- (1) To refuse to hire a job applicant, to fire an employee, or to discriminate against an employee with respect to compensation or the terms or privileges of employment, because of the applicant's or employee's race, color, religion, national origin, sex, ancestry, disability or age (where the individual is 40 years old or older, but under 70).
- (2) To limit, segregate or classify employees or job applicants, on any of these same grounds, in a way which would tend to deprive an individual of job opportunities or otherwise adversely affect the individual's status as an employee.
- (3) To publish or circulate any advertisement or statement, or use any form of job application, which directly or indirectly expresses any limitation, preference or specification related to race, color, religion, national origin, sex, ancestry, disability or age, unless such distinction is based on a bona fide occupational qualification.

Similar acts committed by employment agencies and labor organizations are also prohibited.

COMPLAINTS — Within 180 days of the alleged discriminatory act, a party claiming to be the victim of employment discrimination may file a complaint with the state enforcement agency. If the ensuing investigation finds probable cause for crediting the allegations of the complaint, the state agency must attempt to eliminate the unlawful practice through conference, conciliation and persuasion. In the event of failure to reach an informal settlement, the charges may be heard formally and an order may be issued against the employer or other entity at fault if the evidence presented at the hearing confirms a violation. A formal order may include appropriate affirmative action (such as hiring, reinstatement, upgrading, or back pay) and damages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Missouri Commission on Human Rights, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3325; toll-free 877-781-4236). In enforcing the human rights provisions, the Commission may receive and investigate complaints, hold hearings, compel the attendance of witnesses, subpoena documents, and issue orders for corrective action, as outlined above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker whose complaint to the Commission on Human Rights has not been processed to completion within 180 days after filing may bring a civil suit against the employer or other offending party, after requesting written notice of the right to do so from the state agency. The complainant has 90 days from the date of such notice to commence court action, but in no event may suit be filed any later than 2 years after the alleged discriminatory act or practice occurred. Once the state agency has terminated proceedings in favor of a private suit, no one may file or reinstate a complaint relating to the same act or practice.

Montana

• HUMAN RIGHTS LAWS (ILLEGAL DISCRIMINATION)

STATUTORY CITATION: Mont. Code §§ 49-2-101 - 49-2-602

GENERAL SUMMARY: Chapter 2 of the state human rights laws includes provisions prohibiting employment discrimination and other civil rights violations. These provisions are generally applicable to all agricultural and non-agricultural employers in Montana.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — It is unlawful for an employer to refuse to employ an individual, or to discriminate against an individual with respect to compensation, job conditions or privileges of employment, because of the individual's race, creed, religion, color, or national origin. Likewise, an employer may not discriminate on the basis of age, physical or mental disability, marital status or sex when the reasonable demands of the job do not require an age, physical or mental disability, marital status or sex distinction.

The publication or circulation of any employment advertisement or notice, or the use of a job application form, which expresses a preference, limitation or specification as to sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin is prohibited, unless such a preference, limitation or specification is based on a bona fide occupational qualification.

Employment agencies and labor organizations are also forbidden from engaging in comparable discriminatory acts.

COMPLAINTS — A complaint charging unlawful employment discrimination may be filed with the state enforcement agency by or on behalf of any aggrieved party, but a complaint may be processed only if filed within 180 days after the alleged act or practice occurred. If the state agency's staff investigation determines that the allegations are supported by substantial evidence, the staff must try to eliminate the discriminatory practice by mediation or conciliation. A formal hearing is required whenever such informal methods to resolve the matter are unsuccessful. A finding in favor of the complainant may result in an administrative order requiring the offending employer or other entity to compensate the complainant for any damages suffered, monetary or otherwise.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807). The Bureau is authorized to investigate discrimination complaints, subpoena witnesses and documents, and issue remedial orders, as described above. The Bureau has authority to petition the courts to temporarily restrain a discriminatory practice or interference with the Bureau's work, or to enforce a final order. In addition to civil liability, anyone who violates the job discrimination provisions is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Montana Human Rights Commission, Helena, Montana 59624. The Commission's role in discrimination complaints is limited largely to conducting hearings on dismissals of claims and appeals of final agency decisions issued by the Human Rights Bureau.

PRIVATE CIVIL ACTION — A worker is entitled to file a discrimination complaint in state district court only if the worker has first filed an administrative complaint with the Human Rights Bureau, and the Bureau (1) has been unable to resolve the matter within 180 days of filing and (2) concedes in a letter of release to the complainant that it will be unable to hold a hearing on the case within 12 months of the date of filing. The Bureau may also dismiss a complaint and allow the worker to take the matter to court if the staff determines that the Bureau lacks jurisdiction over the complaint, that the complaint is not supported by substantial evidence, or that the complainant has failed to cooperate with the Bureau. In no event, however, may district court take action on a suit filed later than 90 days from the time the complainant receives the letter of release from the state agency.

Nebraska

NEBRASKA FAIR EMPLOYMENT PRACTICE ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1101 - 48-1126

GENERAL SUMMARY: The Nebraska Fair Employment Practice Act seeks to foster the employment of all employable persons in the state on the basis of merit, regardless of their race, color, religion, sex, disability, marital status, or national origin, and to safeguard their right to obtain and hold employment without such discrimination. The Act generally applies to all agricultural and non-agricultural employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — Among related illegal practices, it is unlawful for a subject employer (1) to refuse to hire a job applicant, to discharge an employee, or to discriminate in any other manner against an individual with respect to compensation or other employment conditions because of the individual's race, color, religion, sex, disability, marital status, or national origin, or (2) to limit, segregate or classify employees on any of these grounds in any way which tends to deprive a person of employment opportunities or otherwise adversely affect the person's status as an employee.

Furthermore, it is unlawful to publish or circulate any employment-related notice or advertisement which indicates a preference, limitation, specification or discrimination based on race, color, religion, sex, disability, marital status, or national origin, except where religion, sex, disability, marital status, or national origin is a bona fide occupational qualification for employment. Job application and hiring procedures that discriminate against a person with a disability, or against a woman who is pregnant or has given birth, are also prohibited.

Comparable acts of discrimination by employment agencies and labor organizations are similarly unlawful.

COMPLAINTS — A person who has suffered from an apparent discriminatory employment practice or act may file a complaint with the state enforcement agency at any time within 300 days after the alleged practice or act occurred. If preliminary investigation reveals reasonable evidence that the allegations have merit, the state agency must try to eliminate the illegal practice through conciliation. The agency may hold a public hearing in the event informal efforts to resolve the complaint are unsuccessful. An appropriate order by the state agency against an employer, employment agency or labor organization found to have committed unlawful employment discrimination may include reinstatement or hiring of the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112). The Commission is authorized to receive, investigate and adjudicate charges of unlawful employment practices anywhere in the state. In that capacity, the Commission may hold hearings, subpoena witnesses, and inspect payroll records and other documentation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

EQUAL EMPLOYMENT OPPORTUNITIES LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 613.310 - 613.435

GENERAL SUMMARY: Chapter 613 of the Nevada statutes contains provisions outlawing discriminatory employment practices on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin. The anti-discrimination provisions generally apply to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS: Among other prohibited acts, it is illegal for a covered employer (1) to refuse to hire a job applicant, to discharge an employee, or to discriminate in any other way against an individual with respect to compensation or terms of employment because of the individual's race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin, (2) to limit, segregate or classify employees, on any of these same grounds, in a way which would tend to deprive a person of employment opportunities or otherwise adversely affect the person's status as an employee, or (3) to print or publish any employment notice or advertisement which indicates a preference or limitation based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin, except where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition, or national origin is a bona fide occupational qualification for employment. Similar discriminatory acts by employment agencies and labor organizations are likewise unlawful.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nevada Equal Rights Commission, Nevada Department of Employment, Training and Rehabilitation, Las Vegas, Nevada 89104 (702-486-7161). Any person aggrieved by an unlawful employment practice such as those described above may file a complaint with the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Equal Rights Commission does not conclude, after investigation of a complaint and opportunity for hearing, that an illegal practice or act of employment discrimination has occurred, the complainant may apply to district court for relief, provided civil action is commenced no later than 180 days after the alleged practice or act occurred. In applying the 180-day limitation, the time during which the complaint was pending before the Commission is disregarded.

New Hampshire

LAW AGAINST DISCRIMINATION

STATUTORY CITATION: N.H. Rev. Stat. §§ 354-A:1 - 354-A:26

GENERAL SUMMARY: The Law Against Discrimination declares, in part, that the opportunity to obtain employment without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability, national origin, or sexual orientation is a civil right. The employment provisions in the Act, which are applicable to most agricultural and non-agricultural employers with 6 or more employees, defines certain unlawful employment practices and establishes an administrative framework for resolving discrimination charges lodged by job applicants and employees.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY PRACTICES — Among other unlawful acts described in the statute, it is generally illegal for an employer:

- (1) To refuse to hire a job applicant, to discharge an employee, or to discriminate against an applicant or employee in the terms, conditions or privileges of employment because of the individual's age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless such distinction is based on a bona fide occupational qualification.
- (2) To print or circulate any employment-related statement or advertisement, or to use any type of job application form, which directly or indirectly expresses any limitation, preference or discrimination on grounds of age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless based on a bona fide occupational qualification.

Similar or comparable acts committed by a labor organization or employment agency are also forbidden.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory practice may file a written complaint with the state enforcement agency within 180 days after the alleged act occurred. If the agency's initial investigation finds sufficient evidence of a violation, the agency must try to eliminate the practice complained of by conference, conciliation and persuasion, but whenever informal efforts are unsuccessful or other circumstances warrant, the agency must call a hearing to allow the employer or other respondent to answer the charges formally. A finding that the respondent did, in fact, engage in unlawful discrimination will result in an order requiring the employer to halt the illegal practice and take appropriate affirmative action to correct any damage suffered by the complainant.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Commission for Human Rights, Concord, New Hampshire 03301 (603-271-2767). In monitoring compliance with the Law Against Discrimination, the Commission is authorized to receive, investigate and rule on complaints alleging violations. This authority includes the power to hold hearings, subpoena documents and witnesses, and take sworn testimony. Besides being subject to administrative orders for affirmative corrective action (which may involve such measures as hiring, reinstatement and back pay), employers and other entities that violate these provisions are subject to criminal prosecution. Under New Hampshire state law, individuals can be held personally liable for aiding and abetting discriminatory conduct.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – U.S. Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). A worker who files a discrimination complaint with the state Commission on Human Rights against a New Hampshire employer who has 15 or more employees preserves his or her rights under the federal law enforced by EEOC (see entry, U.S. — Civil Rights — Fair Employment Practices).

New Jersey

LAW AGAINST DISCRIMINATION

STATUTORY CITATION: N.J. Rev. Stat. §§ 10:5-1 - 10:5-42

GENERAL SUMMARY: The Law Against Discrimination, in part, affirms as a civil right that all persons in New Jersey have the opportunity to obtain employment without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, or gender identity or expression. The statute, which is applicable to most agricultural and non-agricultural employment other than domestic service, defines various prohibited discriminatory employment practices and establishes an administrative procedure for filing and resolving related complaints.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — With certain very narrow exceptions, it is illegal for an employer, because of an individual's race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, nationality, gender identity or expression, disability, atypical hereditary cellular or blood trait, liability for U.S. military service, or refusal to submit to a genetic test or reveal the results of a genetic test:

- (1) To refuse to hire the individual.
- (2) To fire the individual.
- (3) To require the individual to retire, unless justified by legitimate factors other than age.
- (4) To discriminate against the individual in compensation or in the terms, conditions or privileges of employment.
- (5) To print or circulate any employment-related statement or advertisement, or use any form of job application, which expresses a limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality, pregnancy, sex, or liability of a job applicant for U.S. military service, unless such distinction is a bona fide occupational qualification.

Similar discriminatory acts by employment agencies and labor organizations are likewise prohibited.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the state enforcement agency, which is obligated to investigate the charges. If investigation finds probable cause to believe the allegations are true, the agency has 45 days from the date of such finding to eliminate the illegal practice informally. A formal hearing will be convened, however, to allow the employer or other respondent to answer the charges formally whenever conciliation is unsuccessful, and if evidence presented at the hearing confirms the occurrence of a violation, an order will be issued requiring appropriate corrective action by the respondent.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division on Civil Rights, Department of Law and Public Safety, Trenton, New Jersey 08625 (609-292-4605). In enforcing compliance with the Law Against Discrimination, the Department may receive complaints, conduct investigations, hold hearings, subpoena witnesses and documents, and take sworn testimony. In addition to affirmative action and other relief that may be granted a complainant under an administrative order or court judgment, the Department is authorized to assess money penalties of from \$2,000 to \$5,000 against anyone who violates any of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – If the state attorney general deems it in the public interest, the power to investigate complaints, conduct conciliation conferences, hold hearings and take testimony may be delegated to county or municipal civil rights offices where such agencies have been locally established. The findings and conclusions of local civil rights authorities are subject to review by the Division on Civil Rights.

PRIVATE CIVIL ACTION — As an alternative to the administrative complaint procedure outlined above, a worker may file a lawsuit in superior court for relief from alleged employment discrimination, utilizing a private attorney or public legal service provider. Court action automatically bars the filing of a complaint with the state agency while the suit is pending.

New Mexico

HUMAN RIGHTS ACT

STATUTORY CITATION: N.M. Stat. §§ 28-1-1 - 28-1-14

GENERAL SUMMARY: The Human Rights Act defines numerous unlawful practices, including certain forms of employment discrimination, and creates a state administrative framework to receive, investigate and resolve grievances alleging such discriminatory practices. The Act applies to employers and employees in New Mexico without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — It is illegal under most circumstances for an employer with 4 or more workers to refuse to hire a job applicant, to discharge, promote or demote an employee, or to discriminate against anyone otherwise qualified in matters relating to the terms, conditions or privileges of employment, because of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, or serious medical condition, unless such distinction is based on a bona fide occupational qualification or other statutory exception.

Similar acts (1) committed by an employer with 50 or more employees and against an employee because of his or her marital status, and (2) committed by an employer with 15 or more employees and against an employee because of the employee's sexual orientation or gender identity, are also generally illegal.

Employment agencies and labor organizations are barred from comparable discriminatory practices.

A person, employer, employment agency, or organization cannot use the provisions of the Human Rights Act to adopt or implement a quota on the basis of sexual orientation or gender identity.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the enforcement agency within 300 days after the alleged act was committed. If the agency's initial investigation yields evidence of a violation of the Act, the staff must attempt to resolve the complaint through persuasion and conciliation. A formal written complaint against the employer or other respondent involved will be issued if informal efforts at conciliation are unsuccessful, followed by a hearing to allow the respondent to answer the allegations. Upon conclusion of the hearing, a finding that a discriminatory practice has, in fact, occurred will lead to an order requiring appropriate affirmative action by the respondent to eliminate the discrimination and compensate the complainant for actual damages.

APPEAL — Anyone claiming to be aggrieved by an unlawful employment practice may file an appeal in the district court of the county where the discriminatory practice occurred or where the respondent does business. The notice of appeal must be filed within 90 days of service of the commissioner's order.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Investigation and Compliance Unit, Human Rights Bureau, New Mexico Department of Workforce Solutions, Santa Fe, New Mexico 87505 (505-827-6856; toll-free 800-566-9471). In fulfilling the functions outlined above, the Bureau may subpoena witnesses, take sworn testimony, require the production of personnel records and related documentation, and perform other investigative duties. Through local district attorneys or the state attorney general, the Bureau is also empowered to seek court-ordered enforcement of orders issued by the Human Rights Commission, which is the authority designated to hear and adjudicate complaints.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

HUMAN RIGHTS LAW

STATUTORY CITATION: N.Y. Executive Law §§ 290 – 301

GENERAL SUMMARY: The Human Rights Law, in part, declares as a civil right the opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability. The statute outlaws certain discriminatory practices by employers of 4 or more employees in all pursuits other than domestic service.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY EMPLOYMENT PRACTICES — It is unlawful for an employer of 4 or more workers in the state, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, to refuse to hire the individual, to discharge the individual from employment, or to discriminate against the individual in compensation or in the terms, conditions or privileges of employment. The use of any form of job application, or circulation of any employment notice or advertisement, which suggests a preference, specification or similar discrimination with respect to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status, unless such distinction is based on a bona fide occupational qualification, is generally prohibited. The term "age" in these provisions of the Human Rights Law applies to and is intended to protect workers 18 years of age and older.

COMPLAINTS — At any time within one year after an alleged act of employment discrimination, a person aggrieved by such an act may file a complaint with the state enforcement agency, which has 180 days to determine if it has jurisdiction and, if so, whether there is probable cause to believe the employer or other respondent charged in the complaint has engaged in an unlawful practice. When the agency finds probable cause, it must try to negotiate a conciliation agreement between the complainant and the respondent, but if informal efforts are still unsuccessful 270 days after the complaint is filed, the agency is required to call a public hearing to present formal charges. A final order in the case must be issued no later than 180 days after start of the hearing. If the agency rules in favor of the complainant, the order may require the respondent to take affirmative corrective action (such as hiring, reinstatement or upgrading of the employee or employees involved) and pay compensatory damages to the aggrieved parties.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or opposed any practice forbidden under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Human Rights, New York Executive Department, Bronx, New York 10458 (718-741-8402). Division personnel are authorized to investigate charges alleging a violation of the Human Rights Law and to bring such charges on their own initiative. The agency may hold hearings, subpoena witnesses, take sworn testimony, subpoena documents and records, and issue compliance orders, which are enforceable in court. Apart from civil liability, persons found to have willfully violated an order under the Human Rights Law are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative complaint with the Human Rights Division, or if a complaint filed with the Division has been dismissed on certain grounds, a person claiming to have been subjected to unlawful employment discrimination may seek damages and other relief in civil court, using private legal counsel or a public legal service provider. The exercise of the right to private civil action, however, precludes filing a complaint with the administrative agency with respect to the same grievance.

North Carolina

EQUAL EMPLOYMENT PRACTICES ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-422.1 - 143-422.3

GENERAL SUMMARY: The Equal Employment Practices Act declares it a matter of public policy to protect and safeguard the right and opportunity of all persons in North Carolina to seek, obtain and hold employment without discrimination on account of race, religion, color, national origin, age, sex or handicap. The Act authorizes the state human relations council to receive, investigate and conciliate charges of discrimination by employers who regularly employ 15 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as their counterparts in non-agricultural industries, farm employers who regularly employ 15 or more workers are prohibited from discriminating against job applicants and employees with respect to employment when such discrimination is based on race, religion, color, national origin, age, sex or handicap.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – North Carolina Human Relations Commission, North Carolina Department of Administration, Raleigh, North Carolina 27699 (919-807-4420). The Commission may receive and investigate any complaint charging unlawful employment discrimination, including complaints referred by the U.S. Equal Employment Opportunity Commission. The Act directs the Commission to use its good offices to effect an amicable resolution of all such charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

• HUMAN RIGHTS LAW

STATUTORY CITATION: N.D. Cent. Code §§ 14-02.4-01 - 14-02.4-23

GENERAL SUMMARY: Chapter 14-02.4 of the North Dakota statutes declares it state policy to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, mental or physical disability, marital status, public assistance status, or the employee's participation in lawful activity off the employer's premises during non-working hours. To effectuate this policy in the area of employment, the law defines certain discriminatory practices forbidden of employers who have one or more employees for more than one quarter of the year, without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Among other prohibited acts, it is generally unlawful for a subject employer (1) to refuse to hire a job applicant, (2) to discharge an employee, or (3) to accord adverse or unequal treatment to a person with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff or other condition of employment, because of race, color, religion, sex, national origin, age, physical or mental disability, status with respect to marriage or public assistance, or participation in a lawful activity off the employer's premises during non-working hours. Advertising, publishing or otherwise indicating that individuals of a particular race, color, religion, sex, national origin, age, physical or mental disability, marital status, public assistance status, or who participate in lawful activity off the employer's premises during non-working hours are unwelcome, objectionable, not acceptable or not solicited is also illegal.

EXCEPTION — It is generally not discriminatory for an employer to refuse to hire a person, or to discharge an employee, on the basis of religion, sex, national origin, physical or mental disability, or marital status, in situations where religion, sex, national origin, physical or mental disability, or marital status is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Human Rights Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). The Department may receive and act on a complaint charging discriminatory employment practices at any time within 300 days of the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department, anyone claiming to be aggrieved by an act of employment discrimination may bring civil action in state district court against the employer or other entity alleged to be responsible, using private legal counsel or a public legal service provider. Any such action must be filed within 300 days of the alleged violation, but if a complaint is first filed with the Department, court action must commence no later than 90 days after the Department dismisses the complaint or issues a written determination.

Ohio

CIVIL RIGHTS LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4112.01 - 4112.99

GENERAL SUMMARY: The state civil rights law defines certain unlawful discriminatory practices in employment and other settings, and establishes an administrative mechanism for reporting and resolving discrimination charges. The employment provisions of the civil rights law apply to employers that have 4 or more employees working in Ohio, in all industries and occupations other than domestic service and work connected with religious activities.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is illegal for a covered employer, because of the race, color, religion, sex, military status, national origin, disability, age or ancestry of any person, to discharge without just cause, to refuse to hire, or to otherwise discriminate against that person with respect to hire, tenure, the terms, conditions or privileges of employment, or any matter directly or indirectly related to employment.

Except when based on a bona fide occupational qualification certified in advance by the state enforcement agency, employers may not elicit information concerning a job applicant's race, color, religion, sex, military status, national origin, disability, age or ancestry, use any form of job application eliciting such information, publish any advertisement or notice indicating a preference for or bias against applicants on any of these grounds, or make any record of such characteristics prior to employment.

Comparable acts by employment agencies and labor organizations are also prohibited.

COMPLAINTS — Within 6 months after the occurrence of an alleged discriminatory employment practice, a person may lodge a complaint of a violation with the state enforcement agency. If the initial investigation suggests that the allegations are true, the agency must attempt to eliminate the unlawful practice by conference, conciliation and persuasion. Formal charges will be brought against the offending employer or other responsible party in the event informal efforts to obtain compliance are unsuccessful. If evidence presented in the ensuing hearing confirms that the respondent has, in fact, engaged in illegal discrimination, the agency will issue an order requiring cessation of the practice and appropriate affirmative action, which may include hiring, reinstatement, or upgrading of the job applicant or employee involved, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Ohio Civil Rights Commission, Columbus, Ohio 43215 (toll-free 888-278-7101). In processing complaints under the civil rights law, the Commission has the authority to examine personnel records and question the employer and employees at any workplace in the state, to hold hearings, to subpoena witnesses and documents, and to issue compliance orders, enforceable in the courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers subjected to an unlawful employment practice have a right to institute private civil action against the employer involved, using a private attorney or public legal service provider. Such a suit must be commenced within 180 days after the alleged practice occurred. With respect to discrimination on the basis of age, however, court action under the civil rights law automatically bars the complainant from filing an administrative charge with the Civil Rights Commission and from filing suit under the state's age discrimination in employment law (see next entry) with respect to the same complaint.

Oklahoma

OKLAHOMA ANTI-DISCRIMINATION ACT

STATUTORY CITATION: Okla. Stat. Title 25, §§ 1101 - 1706

GENERAL SUMMARY: Along with protections related to housing and public accommodations, the Oklahoma Anti-Discrimination Act defines certain illegal employment practices and prescribes procedures for reporting and resolving charges of employment discrimination. With few exceptions, the Act applies to agricultural and non-agricultural employers who have one or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — It is an unlawful employment practice for an employer to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to the terms, conditions, privileges or responsibilities of employment, because of race, color, religion, sex, national origin, age (40 and over), genetic information or disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the employer's business. The limitation, segregation or classification of an employee or applicant in any way which would deprive the individual of employment opportunities or otherwise adversely affect employment status on any such grounds is also illegal. Employment agencies and labor organizations are subject to comparable restrictions against discrimination.

No employer, employment agency or labor organization may circulate any employment notice or advertisement which indicates a preference or bias based on race, color, religion, sex, national origin, age, genetic information or disability, although religion, sex and national origin may under certain circumstances constitute bona fide occupational qualifications not necessarily indicative of unlawful discrimination.

COMPLAINTS — A person who has a grievance related to discrimination in employment may file a complaint with the state enforcement agency at any time up to 180 days after the alleged discriminatory act or practice occurred. If investigation of the complaint yields reasonable cause to believe the charges are valid and the state agency staff is unable to reach a mutually agreeable settlement between the complainant and the respondent, a hearing will be called to allow the respondent to answer the charges formally. If the agency finds from its review of all the evidence that the respondent has engaged in a discriminatory practice, an attempt must be made to reach a written conciliation agreement with the respondent, but if such measures fail, the agency will issue a formal order requiring compliance with the law and appropriate affirmative action to compensate for the violation. Affirmative action may include, among other remedies, hiring or reinstatement of the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Civil Rights Enforcement, Oklahoma Office of the Attorney General, Oklahoma City, Oklahoma 73105 (405-521-3921). In connection with investigation of a complaint, representatives of this agency have the right to enter public and private property, inspect records and documents relevant to the complaint, and examine and copy other evidence. The agency may also subpoena witnesses and take sworn testimony in fact-finding and adjudicatory proceedings, as outlined above. Final orders of the agency are enforceable in state district court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Attorney General may refer a complaint alleging employment discrimination to any local human relations commission created for such purposes by one or more political subdivisions in the state. Local commissions are authorized to investigate, determine reasonable cause, attempt to informally eliminate discriminatory practices, and recommend compliance action to the Attorney General.

PRIVATE CIVIL ACTION — An employee aggrieved by an alleged violation of the Anti-Discrimination Act may take private legal action against the employer involved, but only after first filing a charge of employment discrimination with the administrative enforcement agency. If the matter is not resolved to the employee's satisfaction within 180 days after the charge is filed, the agency may issue a notice of a right to sue, allowing the employee to proceed with court action, using a private attorney or public legal service provider. Court action must commence no later than 90 days after the worker receives the right-to-sue notice.

Oregon

CIVIL RIGHTS LAWS

STATUTORY CITATION: Or. Rev. Stat. §§ 659A.001 - 659A.990

GENERAL SUMMARY: Chapter 659A of the Oregon statutes outlaws certain forms of discrimination, including a multitude of unlawful employment practices. In general, the ban against employment discrimination applies to all agricultural and non-agricultural pursuits in the state except domestic service and employment by a parent, spouse or child.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — Among numerous other offenses defined in the civil rights laws, it is generally illegal for an employer to refuse to hire a job applicant, or to discharge a worker from employment, because of the individual's race, color, religion, sex, sexual orientation, national origin, marital status, age (if 18 or older), or legally expunged juvenile record. Employers are also prohibited from discriminating against an individual because of the race, color, religion, sex, sexual orientation, national origin, marital status, or age of any other person the individual associates with.

Likewise, an employer may not discriminate against an individual in compensation, or in the terms, conditions or privileges of employment, on any of these same grounds, or print or circulate any employment-related statement or advertisement, or use any form of job application, which expresses a preference or bias related to any such factor.

Other prohibited acts include discrimination against a person because of the person's on-the-job injury or use of workers' compensation rights, the person's military service status, or a disability which does not prevent performance of the work involved.

EXCEPTIONS — Discrimination is not an unlawful employment practice if such discrimination is based on a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business. Also, the prohibition on discrimination against injured workers and workers with a disability applies only to employers with 6 or more employees.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the state enforcement agency, generally within one year after the alleged practice occurred. The state agency must attempt to settle the complaint and eliminate the effects of the unlawful practice through conference, conciliation and persuasion whenever the initial investigation yields substantial evidence supporting the allegations of the complaint. In the event such informal efforts are unsuccessful, the agency may hold a hearing to allow the employer or other party named in the complaint to answer the charges. A formal ruling on the evidence presented in the hearing that the respondent has, in fact, engaged in unlawful discrimination may result in an order for affirmative action compliance, which may include employment or rehiring, back pay, compensatory damages, or other appropriate measures.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). In their investigatory and adjudicatory roles under the state civil rights laws, authorized representatives of the Bureau may enter places of employment, view personnel files, question employees, subpoena witnesses or documents, take statements, report findings, issue administrative determinations, and issue compliance orders, enforceable in civil court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If, within one year after the filing of a complaint, the Bureau has been unable to reach a conciliation agreement with the respondent, has not brought formal charges against the respondent, or has made no administrative determination in the case, the complainant may file a civil suit in circuit court for relief within 90 days, using a private attorney or public legal service provider. Likewise, a worker may take civil action directly, without first filing a complaint with the Bureau, provided the suit is commenced within one year of the occurrence of the alleged discriminatory practice. In either case, court action on the complainant's part bars any further involvement in the matter by the Bureau.

Pennsylvania

PENNSYLVANIA HUMAN RELATIONS ACT

STATUTORY CITATION: 43 Pa. Stat. §§ 951 - 963

GENERAL SUMMARY: The Pennsylvania Human Relations Act is intended, in part, to safeguard the right of individuals in the state to obtain and hold employment regardless of race, color, familial status, religious creed, ancestry, handicap or disability, age, sex, national origin, or the use of a guide or support animal because of blindness, deafness or physical handicap. In pursuit of that objective, the Act establishes a state-administered mechanism for reporting and resolving complaints involving employment discrimination on any such grounds. The law generally applies to any individual, firm or other entity with 4 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: While the Human Relations Act's protections against discrimination in housing and public accommodations apply without regard to a person's occupational or industrial classification, the fair employment provisions do not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pennsylvania Human Relations Commission, Harrisburg, Pennsylvania 17101. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Puerto Rico

EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 146 - 151

GENERAL SUMMARY: Chapter 7 of the Puerto Rico labor laws contains provisions outlawing certain forms of discrimination in employment, applicable to all trades and industries without exception.

SPECIFIC TERMS AND CONDITIONS

EMPLOYMENT DECISIONS — It is illegal for any employer to use a person's age, race, color, sex, social or national origin, social condition, political affiliation, or political or religious ideology as the basis for (1) refusing to hire or rehire the person, (2) discharging or laying off the person, (3) discriminating against the person regarding salary, wages, or the terms, rank, conditions or privileges of work, or (4) limiting or classifying the person in a way that tends to deprive the person of opportunities or affect his or her employment status. Employment discrimination against a person for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking is similarly illegal.

ADVERTISING OR SOLICITATIONS — Employers and labor organizations are generally prohibited from publishing or circulating any announcement denying employment opportunities on grounds of age, race, color, sex, social or national origin, social condition, political affiliation, political or religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking.

POSTING — Every employer and labor union must post a summary of the anti-discrimination provisions in a conspicuous location at the workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Antidiscrimination Unit, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). In response to a complaint, the Department is authorized to investigate possible violations of the employment discrimination law. Representatives of the Department may inspect all records, documents and files maintained by an employer or labor organization relative to any such investigation, and the agency may hold hearings and take testimony as part of the fact-finding process. Violators are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

PRIVATE CIVIL ACTION — A worker may take legal action against an employer for an act of employment discrimination by filing a civil suit, using counsel of the worker's own choosing. In a judgment in the plaintiff's favor, the employer is generally liable for a sum equal to twice the amount of actual damages sustained, plus court costs and attorney's fees. The court may also order the worker's reinstatement on the job or other equitable relief.

Rhode Island

STATE FAIR EMPLOYMENT PRACTICES ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-5-1 - 28-5-43

GENERAL SUMMARY: The State Fair Employment Practices Act affirms the right of most individuals in Rhode Island to equal employment opportunities, regardless of race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin. More specifically, the Act outlaws certain specified practices that are contrary to this policy, and establishes an administrative mechanism for resolving worker complaints charging any such violation.

The law generally applies to employers with 4 or more employees, and protects workers in all areas of employment other than domestic service.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — Employers with 4 or more employees are prohibited from engaging in any of the following practices, among others:

- Refusing to hire a job applicant because of the applicant's race, color, religion, sex, sexual orientation, gender identity or expression, disability, age (40 or over), or country of ancestral origin.
- (2) Discharging or discriminating against an employee, on any of the same grounds, with respect to tenure, compensation, terms or privileges of employment, or any other matter related to employment.
- (3) Utilizing for recruitment or hiring purposes any employment agency, placement service, training provider, labor organization, or any other source of job applicants that the employer has reasonable cause to know discriminates against individuals because of their race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin.
- (4) Using any form of job application containing questions or entries directly or indirectly pertaining to race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin, unless any such factor is a bona fide occupational qualification for the job involved.
- (5) Publishing or circulating any employment advertisement or notice indicating a preference, limitation or bias based on race, color, religion, sex, disability, age, or country of ancestral origin.
- (6) Refusing to reasonably accommodate a worker's or prospective worker's disability, unless the employer can demonstrate that the accommodation would impose a hardship on the employer's business.

Employment agencies and labor organizations are subject to comparable proscriptions against discrimination.

COMPLAINTS — Any individual who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by the Fair Employment Practices Act may file a complaint with the state enforcement agency. When preliminary investigation of the allegations yields probable cause to believe a violation has occurred, the agency must attempt to negotiate a conciliation agreement under which the employer or other respondent named in the complaint pledges to refrain from further unlawful employment discrimination. Failure to reach an informal accord will generally lead to formal written charges against the respondent and a subsequent hearing to allow the respondent to answer them. If the hearing record supports a conclusion that a violation of the Act was committed by the respondent, the agency may issue an order requiring cessation of the illegal employment practice and appropriate corrective action, including such affirmative measures as hiring, reinstatement, or job upgrading, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661). The Commission has explicit authority to hold hearings, subpoena witnesses, take testimony, examine personnel records and related documents, and issue enforceable orders for compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If, not less than 120 days and no more than 2 years after the filing of a charge, the Commission has not been able to reach a settlement or conciliation agreement and has not commenced the hearing process, a worker may request a "notice of right to sue" from the Commission, which must provide the notice within 30 days of the request. The issuance of the right to sue terminates all proceedings before the Commission and allows the worker to file suit against the violator directly, using a private attorney or public legal service provider. Any such suit, however, must be filed within 90 days after the right to sue is issued.

CIVIL RIGHTS OF PEOPLE WITH DISABILITIES LAW

STATUTORY CITATION: 42 R.I. Gen. Laws §§ 42-87-1 - 42-87-5

GENERAL SUMMARY: Chapter 42-87 of the state statutes prohibits discrimination by any person or entity doing business in Rhode Island against any otherwise qualified individual with a disability, solely because of the individual's disability. More specifically, no otherwise qualified person with a disability who, with reasonable accommodation and with no major cost can perform the essential functions of the job in question, may be subjected to employment discrimination solely on the basis of the person's disability. Among other aspects of employment, this proscription applies to recruitment, hiring, promotion or demotion, layoff, termination, compensation and benefits.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment protections provided by these provisions apply without regard to occupational or industrial classification.

PRIMARY ENFORCEMENT AGENCY – Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661). Any individual with a disability who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by these provisions may file a complaint with the Commission. Before instituting a formal hearing, the agency must attempt to resolve the matter by informal methods of conference, persuasion and conciliation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any person with a disability who is the victim of discrimination prohibited by these provisions may take legal action in state court against the person or firm responsible for the violation, using a private attorney or public legal service provider. However, if the alleged violation is within the jurisdiction of the Commission for Human Rights, civil action cannot be commenced unless the Commission has failed to act on the person's complaint within 60 days of filing, or the Commission has issued a final order on the complaint.

South Carolina

SOUTH CAROLINA HUMAN AFFAIRS LAW

STATUTORY CITATION: S.C. Code §§ 1-13-10 - 1-13-110

GENERAL SUMMARY: The South Carolina Human Affairs Law declares unlawful the practice of discrimination against individuals because of race, religion, color, sex, age, national origin, or disability, and defines specific employment-related acts that are prohibited as unlawfully discriminatory. The Human Affairs Law, which generally applies to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more different calendar weeks in the current or preceding calendar year, creates a state commission whose purpose it is to prevent and eliminate such practices.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL ACTS — With numerous but very narrow exceptions, it is forbidden for an employer subject to the law to engage in any of the following practices, among others:

- (1) To refuse to hire a job applicant, to dismiss an employee from the job, or in any other manner to discriminate against a person with respect to compensation or the terms, conditions or privileges of employment, because of the person's race, religion, color, sex, age (over 40), national origin, or disability.
- (2) To limit, segregate or classify employees or job applicants in any way which would tend to deprive an individual of employment opportunities or otherwise affect employment status on the grounds of race, religion, color, sex, age, or national origin.
- (3) To publish or circulate a job notice or employment advertisement indicating a preference, limitation, specification or discrimination based on race, color, religion, sex, national origin or disability.

Employment agencies and labor organizations are bound by comparable anti-discrimination provisions.

COMPLAINTS — Within 180 days after the occurrence of an act perceived to be illegal under the Human Affairs Law, an individual aggrieved by the incident may file a complaint with the state enforcement agency. The agency must respond with an investigation of the facts relating to the allegations in the complaint, and if the evidence gathered indicates the employer or other respondent named in the complaint has, in fact, committed a violation, the agency must issue such a finding and attempt to negotiate a conciliation agreement with the respondent. In the event an informal agreement is not reached within 30 days of its finding, the agency may file suit against the respondent in circuit court. A determination by the court that the respondent intentionally engaged in an unlawful employment practice charged in the complaint is grounds for issuance of an order that the respondent cease such practice and take prescribed corrective action, including reinstatement or hiring of the complainant, with or without back pay, as the court deems appropriate.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – South Carolina Human Affairs Commission, Columbia, South Carolina 29201 (803-737-7800; toll-free 800-521-0725). As outlined above, the Commission has the power to investigate any complaint of employment discrimination under the Human Affairs Law, and to bring legal action against the respondent when investigation reveals evidence of a violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Commission has not commenced action against or entered into a conciliation agreement with the respondent within 180 days from the filing of a complaint by a worker, or if the Commission has dismissed the charges, the worker may bring suit against the respondent in circuit court, using a private attorney or public legal service provider. Civil action generally must be filed no later than one year after the date of the alleged violation, or within 120 days of the date of dismissal of the complaint, whichever is earlier. Court action brought by a worker automatically bars court action by the Commission on the same charge. Likewise, once the Commission files suit in a case, the worker may not take legal action against the respondent with respect to the same violation.

South Dakota

SOUTH DAKOTA HUMAN RELATIONS ACT OF 1972

STATUTORY CITATION: S.D. Codified Laws §§ 20-13-1 - 20-13-56

GENERAL SUMMARY: Among other offenses defined in the South Dakota Human Relations Act, it is an unfair or discriminatory practice for any person, because of race, color, creed, religion, sex, ancestry, disability or national origin, to fail or refuse to hire a job applicant, to discharge an employee, or to accord adverse or unequal treatment to any person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or any term or condition of employment. The Act also prohibits employers from advertising or otherwise indicating that individuals of any particular race, color, creed, religion, sex, ancestry, disability or national origin are unwelcome, objectionable, not acceptable, or not solicited for employment. Provided they are administered without discrimination, ability tests, seniority systems, merit increase plans, job descriptions, or training systems used by employers to make hiring, promotion, pay and other personnel decisions are generally not regarded as unlawful.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment provisions of the Human Relations Act apply equally to both agricultural and non-agricultural employers with one or more employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for anyone to engage in any reprisal, economic or otherwise, against an individual because the individual has filed a charge, testified, or helped anyone exercise rights under the Human Relations Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Human Rights, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). It is the role of this agency to receive, investigate and attempt to settle informally all complaints charging an unfair or discriminatory practice. A worker has up to 180 days after an alleged unlawful act to file a complaint with the Division.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Human Rights Commission, Division of Human Rights, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). Whenever the efforts of the Division of Human Rights to resolve a complaint by conference or conciliation are unsuccessful, the Commission may call a hearing to permit the party named in the complaint to answer the charges. A finding by the Commission that the respondent has, in fact, engaged in an unfair or discriminatory practice will result in an order requiring the respondent to cease and desist from such practice and to take affirmative action to remedy the damage suffered by the complainant.

Tennessee

HUMAN RIGHTS LAW (EMPLOYMENT DISCRIMINATION)

STATUTORY CITATION: Tenn. Code §§ 4-21-101 - 4-21-408

GENERAL SUMMARY: Title 4, Chapter 21 of the Tennessee statutes establishes a state commission on human rights and grants that agency responsibility for, among other matters, enforcing the law's provisions against employment discrimination on grounds of race, creed, color, religion, sex, age, and national origin. The employment provisions of the human rights law apply to both agricultural and non-agricultural employers with 8 or more employees.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY EMPLOYMENT PRACTICES — In general, it is unlawful for a subject employer to refuse to hire a job applicant, to fire an employee, or to discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment, because of the individual's race, creed, color, religion, sex, age (40 and over), or national origin. It is also illegal to limit, segregate or classify employees or job applicants on the basis of any of these same factors in a way which would tend to deprive an individual of employment opportunities or otherwise adversely affect employment status.

Exception — In those instances where religion, sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, the human rights law does not bar an employer from using an applicant's religion, sex or age in hiring decisions.

COMPLAINTS — A worker claiming to be aggrieved by a discriminatory employment practice may file a complaint with the state enforcement agency at any time within 180 days after the alleged practice occurred. The agency's staff must promptly investigate the complaint and, if there is reasonable cause to believe that the employer or other respondent named in the complaint has engaged in a discriminatory practice, must attempt to reach a conciliation agreement under which the employer agrees to eliminate the unlawful practice. Unless the case is dismissed or a conciliation agreement is reached within 90 days after a finding of reasonable cause, the agency must call a hearing and require the respondent to answer the allegations of the complaint formally. After evidence is heard, a determination by the agency that the respondent has engaged in a discriminatory practice will result in issuance of an order for cessation of the violation and appropriate corrective action, which may include hiring, reinstatement or upgrading of the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Tennessee Human Rights Commission, Nashville, Tennessee 37243 (615-741-5825; toll-free 800-251-3589). The Commission is authorized to receive, investigate, seek to conciliate, hold hearings on, and issue findings of fact and related orders in response to complaints alleging violations of the human rights law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is subjected to unlawful employment discrimination under these provisions may, through a private attorney or public legal service provider, bring civil action in chancery court to recover damages, as well as court costs and attorney's fees, and to enjoin further violations. Suit must be filed within one year after the alleged discriminatory practice ceased.

TENNESSEE DISABILITY ACT

STATUTORY CITATION: Tenn. Code §§ 8-50-103 - 8-50-104

GENERAL SUMMARY: The Tennessee Disability Act bars any employer with 8 or more employees in the state from discriminating against a person with respect to hiring, firing and other terms and conditions of employment, based solely on the person's physical, mental or visual disability, unless the disability to some degree prevents the person from performing the duties required or impairs the performance of the work involved. Likewise, no blind person may be discriminated against in any such employment practices because he or she uses a guide dog.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies without regard to the industrial classification of the employer or occupational classification of the worker.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a job applicant because he or she has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Tennessee Human Rights Commission, Nashville, Tennessee 37243 (615-741-5825; toll-free 800-251-3589). The Commission is authorized to receive written sworn complaints filed by individuals aggrieved by discriminatory practices prohibited by the Tennessee Disability Act, and the agency must follow the procedure prescribed in the state human rights law (see previous entry) to try to resolve them.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is subjected to unlawful discrimination under the Tennessee Disability Act may, through a private attorney or public legal service provider, bring civil action in chancery court to recover damages, as well as court costs and attorney's fees, and to enjoin further violations. Suit must be filed within one year after the alleged discriminatory practice ceased.

Texas

EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: Tex. Labor Code §§ 21.001 - 21.556

GENERAL SUMMARY: Chapter 21 of the state labor statutes outlaws certain forms of employment discrimination in Texas and designates a state agency to receive, investigate, conciliate, and judge complaints alleging violations. The law generally applies to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — With some exceptions, it is illegal for a subject employer to engage in any of the following acts, among others:

- (1) To fail or refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment, because of race, color, disability, religion, sex, national origin, or age (40 and older).
- (2) To limit, segregate or classify a job applicant or employee on any of the same grounds in a way that would tend to deprive a person of employment opportunities or otherwise adversely affect employment status.
- (3) To publish or circulate an employment notice or advertisement indicating a preference or specification based on race, color, disability, religion, sex, national origin, or age.

Employment agencies and labor organizations are barred from comparable discriminatory practices.

Exceptions — The law does not prevent employers from applying different standards of compensation, or different terms, conditions or privileges of employment, under a bona fide seniority system, merit system, employee benefit plan, or a system which measures earnings by quantity or quality or production, provided such differences do not discriminate on the basis of race, color, disability, religion, sex, national origin, or age.

COMPLAINTS — Any employee or job applicant who is aggrieved by a discriminatory practice prohibited under these provisions, or the representative of any such worker, may file a complaint with the state enforcement agency at any time within 180 days after the alleged practice occurred. The complaint must be promptly investigated by the agency's staff to determine if there is reasonable cause to believe that the employer or other respondent named in the complaint has, in fact, committed a violation. A determination that reasonable cause exists requires the agency to attempt to eliminate the unlawful practice informally, but if a conciliation agreement cannot be reached within a reasonable time, the agency or the complainant may bring civil action against the respondent to enforce compliance.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Civil Rights Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-2642; toll-free 888-452-4778). In performing its investigatory functions under the employment discrimination law, the Commission is authorized to compel the attendance of witnesses and subpoena personnel records and other documents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Under certain circumstances, the Commission may refer a complaint, or defer jurisdiction over the subject matter of a complaint, to any local commission created by one or more political subdivisions in the state to promote the law's anti-discrimination purposes. In any such case, the local commission must investigate the violation alleged in the complaint and take remedial action, but if the local body fails to act on the complaint within 60 days, the state may assume or reassert jurisdiction over the case.

PRIVATE CIVIL ACTION — Whenever a complaint is dismissed by the Commission, or if the Commission has not successfully negotiated a conciliation agreement or brought suit to enforce compliance within 180 days after the complaint is filed, the complainant may take legal action against the respondent directly, using a private attorney or public legal service provider. Whether brought by the complainant or by the Commission, civil action may not be commenced later than 2 years after the date the complaint was originally filed with the agency.

Utah

• UTAH ANTIDISCRIMINATION ACT

STATUTORY CITATION: Utah Code §§ 34A-5-101 - 34A-5-112

GENERAL SUMMARY: The Utah Antidiscrimination Act outlaws certain defined unfair employment practices and designates a state agency to receive, investigate and rule on complaints alleging violations. The Act generally applies to all employers, agricultural and non-agricultural alike, that employ 15 or more individuals for each working day in 20 or more different calendar weeks during the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICES — With some exceptions, it is unlawful for a subject employer to engage in any of the following practices, among others:

- To refuse to hire or promote an individual, who is otherwise qualified, because of race, color, sex, pregnancy or childbirth, age (40 or older), religion, national origin, disability, sexual orientation, or gender identity.
- (2) To discharge, demote, or discriminate in matters of compensation or the terms, privileges and conditions of employment, against a person who is otherwise qualified, on any of the above-mentioned grounds.
- (3) To print or circulate any statement or advertisement, or use any form of job application, which directly or indirectly expresses any limitation, preference or discrimination as to race, color, religion, sex, pregnancy or childbirth, national origin, age, disability, sexual orientation, or gender identity, unless based on a bona fide occupational qualification.

Employment agencies and labor organizations are subject to similar prohibitions.

EXCEPTIONS — Among other exceptions, nothing in the Act prevents employers from hiring on the basis of religion, sex, pregnancy, childbirth, age, national origin, disability, sexual orientation, or gender identity in those instances where any such characteristic is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

COMPLAINTS — Anyone aggrieved by a discriminatory or unfair employment practice may file with the state enforcement agency a request for agency action, at any time within 180 days after the alleged practice occurred. When the investigation of a complaint yields evidence of a violation, the staff must attempt to eliminate the prohibited practice by conciliation or persuasion. Failure to reach an informal settlement may result in a formal order by the agency, compelling the respondent to cease any discriminatory practice and to provide relief to the complainant.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238). The Division is charged with receiving and investigating complaints under the Act, and with attempting to resolve informally those complaints determined to have merit. Separate units within the agency are responsible for hearing and adjudicating complaints which cannot be resolved by Division staff.

Vermont

FAIR EMPLOYMENT PRACTICES LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 495 – 496a

GENERAL SUMMARY: Chapter 5, Subchapter 6 of the state labor statutes defines certain unlawful practices involving discrimination in employment, applicable to virtually all agricultural and non-agricultural trades and industries in Vermont.

SPECIFIC TERMS AND CONDITIONS: Among other offenses described in the fair employment practices law, it is illegal for an employer to do either of the following:

- (1) To discriminate against an employee or job applicant because of the individual's race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age (18 or over), or to discriminate against a qualified individual with a disability.
- (2) To publish or circulate a job notice or advertisement indicating a preference, limitation or discrimination based on race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, age, or disability.

These prohibitions generally do not apply where a bona fide occupational qualification requires an employee of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, or physical or mental condition. Similarly, the law does not bar an employer from observing the terms of a bona fide seniority system or employee benefit plan which may result in distinctions on the basis of age or disability, provided the system or plan is not a subterfuge to evade the law's anti-discrimination purposes.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Civil Rights Unit, Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3657, toll-free 888-745-9195). Representatives of the attorney general's office are authorized to conduct investigations of employment discrimination charges, and to take action through the courts to restrain prohibited acts and seek civil penalties. The agency also has authority to obtain orders for reinstatement, restitution of wages, and other appropriate relief on behalf of employees who have been subjected to unlawful discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any person aggrieved by a violation of these provisions may bring suit in superior court for damages, restitution of wages and benefits, reinstatement, and other appropriate relief.

Virginia

VIRGINIA HUMAN RIGHTS ACT

STATUTORY CITATION: Va. Code §§ 2.2-3900 - 2.2-3903

GENERAL SUMMARY: Among other provisions, the Virginia Human Rights Act (1) prohibits certain acts of employment discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, and age, and (2) prescribes procedures for resolving complaints of employment discrimination on those grounds. The law applies to employers in certain size categories, but protects employees without regard to their industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is generally unlawful for an employer with more than 5 but fewer than 15 employees to discharge any such employee on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions (including lactation).

Likewise, no employer with more than 5 but fewer than 20 employees may discharge any such employee on the basis of age, if the employee is 40 years old or older.

COMPLAINTS — A worker aggrieved by an apparent act of employment discrimination may submit a complaint to the state enforcement agency, which is authorized to investigate it, determine if there is reasonable cause to believe discrimination occurred, and render a final disposition of the complaint.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Human Rights and Fair Housing, Virginia Office of the Attorney General, Richmond, Virginia 23219 (804-225-2292). This agency investigates complaints alleging discrimination in violation of the state Human Rights Act or corresponding federal laws.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative complaint with the Division of Human Rights, a worker may take civil action against an employer who violates the Act's employment discrimination provision, using a private attorney or public legal service provider. Such action must be filed no later than 300 days after the worker was unlawfully discharged; if the worker filed the complaint with the Division of Human Rights first, civil action must commence no later than 90 days after the date the Division has rendered a final disposition of the complaint. The court may award up to 12 months' back pay, with interest, plus attorney's fees.

Washington

LAW AGAINST DISCRIMINATION

STATUTORY CITATION: Wash. Rev. Code §§ 49.60.010 - 49.60.505

GENERAL SUMMARY: The Law Against Discrimination prohibits certain forms of discrimination in employment and other settings, and creates a state agency with the power to prevent and eliminate such practices. The employment provisions apply to most agricultural and non-agricultural establishments with 8 or more employees.

SPECIFIC TERMS AND CONDITIONS

UNFAIR EMPLOYMENT PRACTICES — Among other prohibited acts, it is generally unlawful for any employer subject to these provisions to engage in any of the following practices:

- (1) To refuse to hire a person because of age (40 and over), sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal), unless such refusal is based on a bona fide occupational qualification.
- (2) To discharge a person from employment because of age, sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal).
- (3) To discriminate against a person in compensation or in other terms or conditions of employment on any of the above-mentioned grounds.
- (4) To print or circulate any statement or advertisement, use any form of job application, or make any inquiry in connection with employment, which expresses any preference, limitation or discrimination as to age, sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal).

Employment agencies and labor unions are subject to similar prohibitions.

COMPLAINTS — Anyone claiming to be aggrieved by an unfair employment practice may file a complaint with the state enforcement agency within 6 months after the alleged discriminatory act. If staff investigation finds reasonable cause to believe an unfair practice has been or is being committed by the employer or other respondent named in the complaint, the staff must attempt to eliminate the violation through conference, conciliation and persuasion. Failure to informally arrive at a conciliation agreement will normally lead to a formal hearing of the complaint by an administrative law judge, and if evidence presented at the hearing supports the validity of the charges, the judge will issue an order requiring the respondent to cease the unlawful practice and to take appropriate corrective action.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Washington State Human Rights Commission, Olympia, Washington 98504 (toll-free 800-233-3247). In investigating complaints of violations under the Law Against Discrimination, the Commission may hold hearings, subpoena witnesses and documents, and compel testimony. In addition to other forms of relief, the Commission has authority to award damages of up to \$20,000 for humiliation and mental suffering caused by a prohibited act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

WEST VIRGINIA HUMAN RIGHTS ACT

STATUTORY CITATION: W. Va. Code §§ 5-11-1 - 5-11-20

GENERAL SUMMARY: The West Virginia Human Rights Act declares, in part, that equal opportunity in employment is a human and civil right of all persons, without regard to race, religion, color, national origin, ancestry, sex, age, blindness or disability. The Act defines certain unlawful discriminatory employment practices and establishes a state-administered framework for investigating and resolving related complaints.

With few exceptions, the law applies to all establishments — agricultural and non-agricultural alike — employing 12 or more workers in West Virginia for 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL PRACTICES — Employers subject to the law are generally prohibited from engaging in any of the following acts, among others:

- (1) Discriminating against an individual with respect to compensation, hire, tenure, or the terms or conditions of employment, when the individual is able and competent to perform the required services and when such discrimination is on grounds of race, religion, color, national origin, ancestry, sex, age (40 or over), blindness, or disability.
- (2) Eliciting pre-employment information, using any form of job application, or circulating any employment notice, concerning or indicating any preference or discrimination with respect to race, religion, color, national origin, ancestry, sex or age.

Employment agencies and labor organizations are subject to comparable prohibitions against discrimination.

Exceptions — Bona fide pension, retirement, insurance or welfare benefit plans are not regarded as discriminatory as long as they are not used as a subterfuge to evade the Act's anti-discrimination intent. Likewise, hiring or any other employment decision that recognizes a person's race, religion, color, national origin, ancestry, sex, age, blindness, or disability does not necessarily violate the law, provided such a decision is based on a bona fide occupational qualification.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory practice may file a complaint with the state enforcement agency at any time within 365 days after the alleged act occurred. If the state agency's investigation finds probable cause for believing that the employer or other respondent named in the complaint has violated the Act, the staff must attempt to eliminate the unlawful practice informally. Failure to reach an informal compliance agreement will normally result in a formal hearing to allow the respondent to answer the charges, and if the evidence presented in the hearing sustains the allegations of the complaint, the agency will issue an order requiring the respondent to cease the unlawful practice and take affirmative action to compensate the complainant. Affirmative action may include hiring, reinstatement or promotion, with or without back pay, or other appropriate relief.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546). It is the Commission's responsibility to receive, investigate and attempt to resolve complaints of employment discrimination under the Human Rights Act. For that purpose, the Commission is authorized to hold public and private hearings, subpoena witnesses and documents, take sworn testimony, and pursue related investigatory action. In addition to civil liability to the worker or workers affected by an act of discrimination, an employer who fails to comply with a lawful final order of the Commission is subject to a criminal fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Commission fails to take certain action on a complaint within specified timeframes, or if a complaint is not resolved to the complainant's satisfaction, the complainant may request a right-to-sue letter from the Commission, permitting private legal action against the respondent within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later. As an alternative to filing a complaint with the Commission, a person who has been subjected to unlawful employment discrimination may take legal action against the employer or other party involved immediately, using a private attorney or public legal service provider.

PREGNANT WORKERS' FAIRNESS ACT

STATUTORY CITATION: W. Va. Code §§ 5-11B-1 - 5-11B-7

GENERAL SUMMARY: The Pregnant Workers' Fairness Act declares employment discrimination against workers who are affected by pregnancy, childbirth or related medical conditions unlawful, and requires employers to make reasonable accommodations for such workers. Furthermore, an employer may not require a job applicant or employee affected by pregnancy, childbirth or a related medical condition to accept an accommodation that the applicant or employee chooses not to accept, and may not require an employee to take leave if another reasonable accommodation can be provided.

PROVISIONS APPLICABLE TO AGRICULTURE: With few exceptions, the law applies to all establishments — agricultural and non-agricultural alike — employing 12 or more workers in West Virginia for 20 or more calendar weeks in the current or preceding calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546). Complaints, investigations and administrative adjudication under the Pregnant Workers' Fairness Act are handled by the Commission in the same manner as prescribed under the West Virginia Human Rights Act (see previous entry).

PRIVATE CIVIL ACTION — If the Commission fails to take certain action on a complaint within specified timeframes, or if a complaint is not resolved to the complainant's satisfaction, the complainant may request a right-to-sue letter from the Commission, permitting private legal action against the respondent within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later. As an alternative to filing a complaint with the Commission, a person who has been subjected to unlawful employment discrimination may take legal action against the employer or other party involved immediately, using a private attorney or public legal service provider.

Wisconsin

WISCONSIN FAIR EMPLOYMENT ACT

STATUTORY CITATION: Wis. Stat. §§ 111.31 - 111.395

GENERAL SUMMARY: The Wisconsin Fair Employment Act outlaws, among other practices, unfair discrimination in employment against properly qualified individuals, and establishes state-administered procedures for resolving related complaints. The Act applies to employers and employees in virtually all trades and industries in the state.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — With certain narrow, explicitly defined exceptions, no employer may engage in any of the following acts of employment discrimination:

- (1) Refusing to hire a job applicant, discharging an employee, or discriminating against an individual with respect to promotion, compensation, or the terms, conditions or privileges of employment, because of the individual's age (40 or over), race, creed, color, disability, marital status, sex, sexual orientation, pregnancy or childbirth, national origin, ancestry, arrest record, conviction record, military service, use or non-use of lawful products off the employer's premises during non-working hours, or declining to attend a meeting or to participate in any communication about religious or political matters.
- (2) Printing or circulating any statement, advertisement or notice, using any form of job application, or making any inquiry in connection with prospective employment, which implies or expresses any preference, limitation or discrimination on any of the above-cited grounds.
- (3) Discharging or otherwise discriminating against an individual because he or she has opposed any discriminatory practice, or because he or she has made a complaint, testified or assisted in any proceeding under this law.

Comparable prohibitions apply to employment agencies and labor organizations.

COMPLAINTS — Anyone aggrieved by a discriminatory employment practice may file a complaint with the state enforcement agency at any time within 300 days after the alleged practice occurred. Once a complaint is filed, the agency will notify the employer involved, undertake an impartial investigation, and attempt to settle the problem by informal means. If the investigation finds probable cause to believe discrimination has occurred, the matter will be heard by an administrative law judge in a formal hearing. If evidence presented at the hearing confirms an unlawful act of discrimination, the ALJ may order back pay to the complainant, reinstatement to the job, lost benefits or other appropriate relief, as well as attorney's fees (if any) and costs. Such an order is enforceable in court.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Civil Rights Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53708 (414-227-4396). In enforcing the Fair Employment Act, the Equal Rights Division has authority to conduct investigations, hold hearings, subpoena witnesses, take testimony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING FAIR EMPLOYMENT PRACTICES ACT OF 1965

STATUTORY CITATION: Wyo. Stat. §§ 27-9-101 - 27-9-108

GENERAL SUMMARY: The Wyoming Fair Employment Practices Act defines certain acts which constitute discriminatory and unfair employment practices, and establishes procedures for processing and resolving related complaints. The Act applies to all agricultural and non-agricultural employers (other than religious organizations) with 2 or more employees.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED PRACTICES — In general, it is illegal for a subject employer to refuse to hire a job applicant, to discharge, promote or demote an employee, or to discriminate against an applicant or employee in matters of compensation or the terms, conditions or privileges of employment, because of age (40 and above), sex, race, creed, color, national origin, ancestry, disability, or pregnancy, when the applicant or employee is otherwise qualified to perform the job.

COMPLAINTS — Anyone claiming to have been subjected to a discriminatory or unfair employment practice may file a complaint with the state enforcement agency within 6 months of the alleged violation. If the agency determines that the complaint has merit, the employer involved may request a hearing. If the allegations of the complaint are sustained by the evidence presented at the hearing, the agency may issue an order within 14 days thereafter, requiring the respondent to cease the illegal practice and to take corrective action, which may include hiring, reinstating or upgrading the complainant, with or without back pay.

SPECIAL NOTES OR ADVISORIES

 $\label{local_correction} \textbf{CORRECTIVE ACTION} \ - \ \textbf{It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.}$

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). In investigating reported or suspected violations of the Fair Employment Practices Act, the Department is authorized to subpoena payroll and personnel records, subpoena witnesses, take sworn testimony, and hold hearings.

U.S.

■ EQUAL PAY ACT OF 1963

STATUTORY CITATION: 29 USC § 206(d)

RELATED REGULATIONS: 29 CFR Parts 1620 and 1621

GENERAL SUMMARY: The Equal Pay Act generally prohibits an employer subject to the federal minimum wage from discriminating between employees on the basis of sex by paying wages to employees at a rate less than that at which he or she pays employees of the opposite sex at the same establishment for substantially equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. Different pay scales, however, may be utilized where payment is made pursuant to (1) a seniority system, (2) a merit system, (3) a system which measures earnings by quantity or quality of production, or (4) a differential based on any factor other than sex.

Wages withheld in violation of the Equal Pay Act have the status of unpaid minimum wages or unpaid overtime compensation under the Fair Labor Standards Act and may be recovered in the same manner.

PROVISIONS APPLICABLE TO AGRICULTURE: In accordance with the related minimum-wage coverage provisions (see entry, U.S. — Wages & Hours — Minimum Wage), only those agricultural workers who are employed by a farm operator or other agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are covered by the Equal Pay Act.

SPECIAL NOTES OR ADVISORIES

 ${\tt CORRECTIVE\ ACTION\ --}$ It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint or participated in any investigation or proceeding under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). The Commission is authorized to investigate and gather data regarding wages, hours and other employment conditions and practices, to enter and inspect workplaces and records, to interview individuals, and to subpoena witnesses and order the production of documents. The Commission may file suit on behalf of any worker claiming to have been victimized by a violation of the Equal Pay Act, and may supervise payment of back wages and civil penalties. Certain violations may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Commission, a person who has been subjected to unlawful wage discrimination on the basis of sex may take civil action against the employer involved directly, using a private attorney or a public legal service provider. Any such action must be filed no later than 2 years after the discrimination occurred (within 3 years in the case of a willful violation).

Arizona

ARIZONA EQUAL WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-340 - 23-341

GENERAL SUMMARY: Chapter 2, Article 6.1 of Arizona's labor laws provides that no employer may pay any person a wage less than the rate paid to employees of the opposite sex at the same workplace, for the same quantity and quality of work in the same classification. Wage variations that result in different pay for male and female employees in the same classification are permitted, however, when the wage differential is based on seniority, ability, difference in duties, difference in the shift worked, or other reasonable factors other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal wage law applies to all employers and employees in Arizona, including those involved in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). Employees who believe they have been discriminated against in the payment of wages or salaries because of their sex may file a complaint with the Department, which is required to investigate claims and take necessary action to enforce payment of any sums determined due and unpaid in accordance with this law. An employee has 6 months after an alleged violation to file a complaint with the Department, but an employer cannot be held liable for any pay due for more than 30 days before the employee provides the employer with written notice of a claim to unpaid wages. Furthermore, the burden of proof is on the employee to establish that the differentiation in pay is based on sex and not on other differences or factors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Recovery of unpaid wages resulting from unlawful sex discrimination may be pursued by the affected worker in civil court, using an outside attorney or public legal service provider.

Arkansas

EQUAL PAY LAW

STATUTORY CITATION: Ark. Code § 11-4-601

GENERAL SUMMARY: Employers in Arkansas must pay their employees equal compensation for equal services. Employers are prohibited from discriminating against an employee in wages or compensation solely on the basis of the employee's sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law makes no distinction between agricultural and non-agricultural workers or employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - This provision is enforced by public prosecuting attorneys in criminal court. Violations are classed as a misdemeanor, and each day a violation continues constitutes a separate offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE DISCRIMINATION LAW

STATUTORY CITATION: Ark. Code §§ 11-4-607 - 11-4-612

GENERAL SUMMARY: Most employers in the state are prohibited from discriminating in the payment of wages solely because of a worker's sex. Covered employers are liable for any wages withheld in violation of this provision, plus liquidated damages, attorney's fees and court costs, if settlement through civil legal action is required.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination law does not apply to persons engaged in agricultural service, or in temporary or seasonal employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

WAGE AND HOUR LAWS (EQUAL PAY PROVISION)

STATUTORY CITATION: Cal. Lab. Code § 1197.5

GENERAL SUMMARY: It is unlawful for any employer in California to pay any individual at a wage rate less than the rate paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort and responsibility, and which are performed under similar working conditions. This does not, however, preclude the payment of wage differentials based on seniority, merit, quantity or quality of production, or any other bona fide factor other than gender.

Employers are required to maintain records of wages, wage rates, job classifications and other terms and conditions of employment. Any employer who violates the equal pay provision is liable to the affected worker in the amount of the wages (plus interest) of which the worker was deprived by reason of the violation, and an additional, equal amount as liquidated damages.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to agricultural labor to the same extent as to non-agricultural labor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division may investigate any complaint filed by an employee under this provision and is empowered to prosecute civil suits against violating employers. Violation of the equal pay provision by an employer is a misdemeanor, punishable by a fine, jail term or both. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*PRIVATE CIVIL ACTION — To enforce the rights described above, an employee may also bring civil action against the employee directly, using a private attorney or a public legal service provider. Such action must commence within 2 years after the alleged violation occurred (within 3 years if the violation is found to be willful).

Colorado

○ STATE LABOR LAWS (WAGE EQUALITY)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-5-101 - 8-5-106

GENERAL SUMMARY: The state labor laws contain a provision prohibiting wage and salary discrimination solely on the basis of the employee's sex, and exposing employers who commit violations to civil penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage equality provisions do not apply to farm and ranch laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

WAGE AND HOUR LAWS (WAGE DISCRIMINATION)

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-75 - 31-76

GENERAL SUMMARY: The state wage and hour laws provide that no employer may discriminate in the amount of compensation paid to any employee solely on the basis of sex. Except to the extent that employment practices may recognize length of service or merit rating as a factor in determining wage or salary rates, any difference in pay based on sex is deemed to be discrimination. Workers who believe they have been subjected to sex discrimination in compensation may file a complaint with the enforcement agency, provided the complaint is filed within one year after the alleged violation occurred.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply equally to agricultural and non-agricultural employment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department is authorized to enter places of employment, inspect payrolls, investigate work and operations on which employees are engaged, question employees and take such action as is reasonably necessary to determine compliance with these provisions. On behalf of a worker who has not received full pay due to an apparent act of wage discrimination may file a complaint with the Department, which may take legal action against the employer involved to enforce the claim. Such action generally must commence no later than 2 years after the alleged violation occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a complaint with the state labor department, a worker who has been paid less than the pay to which he or she is entitled because of unlawful wage discrimination may recover the unpaid amount in a civil suit against the employer involved, using a private attorney or a public legal service provider. Under ordinary circumstances, civil action must be filed within 2 years after the alleged violation occurred.

Delaware

WAGE PAYMENT AND COLLECTION ACT OF THE STATE (EQUAL PAY PROVISION)

STATUTORY CITATION: Del. Code Title 19, §§ 1101-1115

GENERAL SUMMARY: Among related worker protections, the Wage Payment and Collection Act forbids any employer from paying an employee wages at a rate less than the rate paid to an employee of the opposite sex in the same establishment for equal work, on a job whose performance requires equal skill, effort and responsibility, and which is performed under similar working conditions. Generally the only exception is where payment is made pursuant to a differential based on a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to agricultural employers to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

PRIMARY ENFORCEMENT AGENCY – Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200). On application to superior court, the Department is authorized to enter and inspect any workplace where a violation of this law has occurred or is occurring, to examine and copy books and records, to question the employer and any employee, to hold hearings, and to take other steps to enforce compliance. Pay which is withheld from an employee in violation of the prohibition against wage differentials based on sex is treated as unpaid wages, and whenever the Department determines that wages have not been duly paid, the Department may bring legal action against the employer to collect the claim. Civil and criminal penalties may be levied against employers convicted of a violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages under the equal pay provision by filing suit against the employer in civil court, using a private attorney or a public legal service provider.

Florida

GENERAL LABOR REGULATIONS (WAGE DISCRIMINATION)

STATUTORY CITATION: Fla. Stat. § 448.07

GENERAL SUMMARY: No one who employs 2 or more workers in the state may discriminate between employees on the basis of sex by paying wages to any worker at a rate less than the rate the same employer pays employees of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions. When exercised in good faith, a seniority system, a merit system, a pay scale which measures earnings by quantity or quality of production, or a wage differential based on any reasonable factor other than gender, is not considered unlawfully discriminatory.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination provision applies to agricultural employers, and protects agricultural workers, to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

COVERAGE EXCEPTION — This provision does not apply to employers, or to employees of employers, who are subject to the Fair Labor Standards Act of 1938 (see entry, U.S.—Wages & Hours—Minimum Wage).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who believes he or she has been paid less than lawful compensation in violation of this law may file a civil action to recover the unpaid wages, provided the action is commenced within 6 months after termination of employment. Any employer or other person who violates the wage discrimination provision is liable to the employee for the difference between the amount the employee was paid and the amount the employee should have been paid under the statute. The court may also award court costs and reasonable attorney's fees.

Georgia

○ SEX DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ga. Code §§ 34-5-1 - 34-5-7

GENERAL SUMMARY: Chapter 5 of the state labor statutes prohibits discrimination on the basis of sex in hiring, promotion, compensation, and other terms and conditions of employment by most employers in Georgia who employ 10 or more workers.

PROVISIONS APPLICABLE TO AGRICULTURE: The sex discrimination in employment law does not apply to agricultural employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Georgia Department of Labor, Atlanta, Georgia 30303. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Hawaii

STATUTORY CITATION: Haw. Rev. Stat. § 387-4

GENERAL SUMMARY: Among its other purposes, the state wage and hour law prohibits certain employers in Hawaii from discriminating in the payment of wages on the basis of race, religion or sex. A wage variation among employees engaged in the same classification of work is not unlawful if it is based on a difference in seniority, length of service, substantial difference in duties or services performed, difference in the shift or time of day worked, or hours of work.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURE GENERALLY — Except in the harvesting of coffee, workers employed in agriculture for any workweek in which the employer has 20 or more employees are protected by the wage discrimination provision, and employers of such workers are required to abide by its terms.

COFFEE HARVESTING — The wage discrimination in employment provision *does not apply* to agricultural workers engaged in the harvesting of coffee.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). Complaints of wage discrimination under the wage and hour law may be filed with the nearest district office of the Department, which is responsible for investigating all such claims. The agency may seek injunctive action against any subject employer in state court to enforce compliance with the anti-discrimination provision. Likewise, at the request of any person paid less than the amount to which he or she is entitled under this provision, the Department may bring legal action against the employer on the worker's behalf to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A claim for unpaid wages resulting from an act of unlawful wage discrimination may be pursued against the employer directly, in a civil suit filed by the worker through a private attorney or public legal service provider.

Idaho

STATE LABOR LAWS (WAGE DISCRIMINATION)

STATUTORY CITATION: Idaho Code §§ 44-1701 – 44-1704

RELATED REGULATIONS: Idaho Admin. Code R. 45.01.01

GENERAL SUMMARY: Chapter 17 of the state labor laws bans wage discrimination on the basis of sex and establishes procedures for the collection of unpaid wages by employees affected by such discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE

UNLAWFUL ACTS — In agriculture as in all other industrial sectors in the state, no employer may discriminate between or among employees in the same establishment on the basis of sex, by paying wages to any employee at a rate less than the rate at which employees of the opposite sex are paid for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. However, differentials that are paid pursuant to established seniority systems or merit increase systems which do not discriminate on the basis of sex are not prohibited.

COLLECTION OF UNPAID WAGES — At the written request of an employee claiming to have been paid less than the wage to which the worker is entitled under the anti-discrimination provision, the state enforcement agency may bring legal action on the worker's behalf to collect the claim and obtain other suitable relief.

SPECIAL NOTES OR ADVISORIES

RETALIATION — No employer may discharge or discriminate against any employee because the employee filed a claim or took any other action to exercise rights under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Idaho Commission on Human Rights, Boise, Idaho 83735 (208-334-2664).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Employees have a right to take private legal action against any employer believed to have paid unequal wages on the basis of gender. In a private suit for a willful violation, the employer is liable to the employee or employees affected in the amount of their unpaid wages, plus an equal amount as liquidated damages. The court may also order appropriate affirmative action, including reinstatement of any employee illegally discharged.

Illinois

EQUAL PAY ACT OF 2003

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 112/1 - 112/90

GENERAL SUMMARY: The Equal Pay Act prohibits wage discrimination on the basis of sex and applies to virtually all employers and employees in Illinois.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is illegal for an employer to discriminate between employees on the basis of sex, by paying wages to an employee at a rate less than the rate the employer pays to another employee of the opposite sex for the same or substantially similar work, on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions.

Exceptions — Different wage rates are allowable when payment is made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

RECORDKEEPING — Employers subject to the Act are required to keep records for at least 5 years documenting the names, addresses, and occupations of their employees, and the wages paid to each one.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for an employer to interfere with, fire, or in any other way discriminate against an employee for having filed a complaint, given information, testified or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2808). The Department has authority to conduct investigations to enforce the Equal Pay Act and is empowered to visit and inspect any workplace covered by the law at any reasonable time. On behalf of workers who have filed complaints under this law, the Department may take legal action against employers found to have violated any of these provisions and may assess civil money penalties of up to \$5,000 per violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Illinois Department of Human Rights, Chicago, Illinois 60601* (312-814-6200). The Department of Labor may refer a complaint alleging wage discrimination under the Equal Pay Act to the Department of Human Rights if the subject matter of the complaint also alleges a violation of the Illinois Human Rights Act. PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee who has suffered wage discrimination under the Equal Pay Act may take civil action against the employer directly, using a private attorney or public legal service provider. Court action to recover under-paid wages or salaries under the Act must be brought within 5 years from the date of the under-payment.

Indiana

○ MINIMUM WAGE LAW OF 1965 (WAGE DISCRIMINATION)

STATUTORY CITATION: Ind. Code § 22-2-2-4(d)

GENERAL SUMMARY: Among its other protections, the Minimum Wage Law generally prohibits Indiana employers (a) who have 2 or more employees, and (b) who are not subject to the federal minimum wage, from discriminating on the basis of sex, by paying workers of one sex wages that are lower than those paid to workers of the opposite sex at the same workplace for equal work, on jobs whose performance requires equal skills, effort and responsibility and which are performed under similar working conditions.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law, and hence the wage discrimination provision, does not apply to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Iowa

IOWA CIVIL RIGHTS ACT OF 1965 (WAGE DISCRIMINATION)

STATUTORY CITATION: Iowa Code § 216.6A

RELATED REGULATIONS: Iowa Admin. Code 161.1.1 - 161.15.3

GENERAL SUMMARY: The Iowa Civil Rights Act includes a provision explicitly prohibiting wage discrimination. The Act applies to all employers who regularly employ 4 or more individuals, without regard to industry or occupation.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer who regularly employs 4 or more workers to discriminate against an employee — because of the employee's age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability — by paying wages to the employee at a rate less than the rate paid to other employees in the same establishment for equal work on jobs that require equal skill, effort and responsibility and that are performed under similar working conditions.

Wage differentials are not regarded as discriminatory if they are based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other factor other than the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of the employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Iowa Civil Rights Commission, Des Moines, Iowa 50319 (515-281-4121; toll-free 800-457-4416).* The Commission is charged with receiving, investigating and determining the merits of complaints alleging unfair or discriminatory practices.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After 60 days following the timely filing of a complaint, the complainant may request a right-to-sue letter from the Commission and file a private civil suit for relief in state district court, using a private attorney or a public legal service provider. However, the Commission is barred from issuing a right-to-sue letter if, on the date of the request, (1) the Commission has issued a finding of "no probable cause," (2) a conciliation agreement has been entered into, (3) the Commission has served a notice of hearing on the respondent, or (4) the complaint has been administratively closed and 2 years have elapsed since the date of closure. In all cases, private civil action must commence within 90 days after the right-to-sue letter is mailed, and once a letter is issued, the Commission is barred from further action on the complaint.

Kansas

○ MINIMUM WAGE AND MAXIMUM HOURS LAW (WAGE DISCRIMINATION)

STATUTORY CITATION: Kan. Stat. § 44-1205

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law, aside from establishing minimum wage and overtime pay requirements, provides that no employer subject to the Act may discriminate against employees on the basis of sex, by paying them wages at a rate less than the wage rate paid to employees of the opposite sex in the same establishment for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. The Act does not, however, bar unequal compensation paid pursuant to a seniority or merit system, a system that measures earnings by quantity or quality of production, or any other arrangement in which a wage differential is based on a factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law, and hence the sex discrimination provision, does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

WAGE DISCRIMINATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.420 - 337.433

GENERAL SUMMARY: Every employer who has 2 or more employees in Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year is forbidden from discriminating between employees in the same establishment on the basis of sex, by paying wages to an employee in any occupation at a rate less than the rate paid to an employee of the opposite sex for comparable work, on jobs which have comparable requirements relating to skill, effort and responsibility. Wage differentials paid pursuant to an established seniority system or merit increase system which does not discriminate on the basis of sex are generally not within this prohibition.

PROVISIONS APPLICABLE TO AGRICULTURE: As in most other industries, agricultural establishments which employ 2 or more workers in 20 or more different calendar weeks in the current or preceding calendar year are subject to the wage discrimination provisions.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any such act of retaliation is regarded as a criminal offense.

PRIMARY ENFORCEMENT AGENCY – Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). The Department has authority to investigate reported or suspected violations of the wage discrimination provisions at any place of employment in the state, to inspect records, to interview employers and workers, to hold hearings, and to subpoena witnesses. The Department must try to eliminate discriminatory wage practices by informal means, but if necessary may bring legal action against any employer on behalf of any employee claiming to have been paid less than equal wages required under the law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

WAGE PAYMENT LAWS (EQUAL PAY)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 628

GENERAL SUMMARY: Employers in Maine may not discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation at a rate less than the rate at which employees of the opposite sex are paid for comparable work, on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials paid pursuant to established seniority systems or merit increase systems, or differences in shift or time of day worked, which do not discriminate on the basis of sex are not within this prohibition.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies implicitly to agricultural employers, and protects agricultural workers, to the same extent as their counterparts outside agriculture.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900). When a worker reports an incident involving unequal pay based on sex, the law requires the Department to investigate the allegations and, if the charges are confirmed, to bring suit against the employer on the worker's behalf to collect or supervise the payment of the judgment. Violators of the equal pay provision are also subject to a forfeiture of up to \$500 for each violation, payment of which the Department may enforce through the same litigation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who is affected by wage-related sex discrimination may elect to take civil action on his or her own, through private legal counsel or a public legal service provider. A judgment in favor of the worker may include, in addition to the unpaid wages due, a reasonable rate of interest, twice the amount of unpaid wages as liquidated damages, court costs, and attorney's fees.

Maryland

EQUAL PAY FOR EQUAL WORK LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-301 - 3-309

GENERAL SUMMARY: Title 3, Subtitle 3 of the state labor statutes prohibits wage and salary discrimination on the basis of sex in all workplaces in Maryland.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — No employer may discriminate in any way by paying wages or salaries in any occupation to employees of one sex at a rate less than that paid employees of the opposite sex for work of comparable character or work in the same operation or business in the same establishment. This does not, however, preclude pay differentials based on (1) seniority or merit, provided such systems do not discriminate on the basis of sex, (2) jobs requiring different skill or ability, or (3) work on different shifts.

RECORDKEEPING — Every employer must keep records of the wages, job classifications, and other terms and conditions of employment for each employee.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency must generally attempt to eliminate discriminatory pay practices informally whenever an investigation of a reported or suspected violation confirms such practices. At any time within 3 years after the violation occurs, the Division is authorized to take legal action on behalf of and at the written request of any worker to collect a valid claim for unpaid wages resulting from illegal wage discrimination under these provisions. An employer who violates the equal pay law is liable to the worker in the amount of the unpaid wages, plus an equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker may elect to recover amounts unpaid due to illegal wage discrimination by filing suit against the offending employer directly, using legal counsel of the worker's own choice. However, no action to recover unpaid wages and damages may be brought unless commenced within 3 years after occurrence of the discriminatory act which is the basis of the complaint.

Massachusetts

EQUAL PAY LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, § 1 and §§ 105A - 105C

GENERAL SUMMARY: No employer may discriminate in the payment of wages on the basis of sex, or pay any person at a salary level or wage rate less than the rate paid to employees of the opposite sex for work of like or comparable character, or work on like or comparable operations. This prohibition does not preclude wage variations based on differences in seniority.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision does not apply to employees engaged in agricultural service.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — On August 1, 2016, the Governor of Massachusetts signed into law a bill amending these provisions by (1) explicitly defining the terms "comparable work," "working conditions," and "wages," (2) substantially rewording the equal-pay requirement, and (3) extending the time for lodging an equal-pay claim from 1 to 3 years. The amendments, which take effect on January 1, 2018, do not alter the exclusion of agricultural employees from coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Massachusetts Attorney General, Boston, Massachusetts 02108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Michigan

→ WORKFORCE OPPORTUNITY WAGE ACT (EQUAL PAY)

STATUTORY CITATION: Mich. Comp. Laws § 408.423

GENERAL SUMMARY: In general, any Michigan employer who (1) has 2 or more employees, and (2) is not subject to the minimum wage provisions of the federal Fair Labor Standards Act, may not discriminate on the basis of sex by paying wages to workers at a rate less than the rate at which workers of the opposite sex are paid in the same establishment for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. This does not preclude use of wage differentials tied to factors other than sex, including seniority, merit, and quantity or quality of production.

PROVISIONS APPLICABLE TO AGRICULTURE: Because this law does not apply to employees who are not covered by the FLSA minimum wage provisions, farmworkers are protected by the equal pay protection in the Workforce Opportunity Wage Act only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). For enforcement purposes, any amount to which a worker is entitled because of sex-related discrimination is treated as unpaid minimum wages. At any time within 3 years after a minimum wage violation, the worker may file a claim with the Department. If the Department's investigation finds reasonable cause to believe the employer has violated the law and the Department is unable to obtain voluntary compliance within a reasonable time, the agency must take action in court to collect the claim.

PRIVATE CIVIL ACTION — Subject to the same 3-year time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.

Minnesota

EQUAL PAY FOR EQUAL WORK LAW

STATUTORY CITATION: Minn. Stat. §§ 181.66 - 181.71

GENERAL SUMMARY: The Equal Pay for Equal Work Law makes it illegal for an employer to discriminate between employees on the basis of sex, by paying wages to workers at a rate less than the rate at which the employer pays workers of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. Pay differentials are not regarded as discriminatory, however, where payment is made in accordance with a system based on seniority, merit, quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as non-agricultural coverage, the Equal Pay for Equal Work Law applies to every agricultural establishment employing one or more employees.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Violations of these provisions are regarded as misdemeanor offenses and are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has been paid discriminatory wages based on sex in violation of the equal pay law has a right of action against the employer involved, for recovery of the unpaid wages to which the worker is entitled for the one-year period preceding the filing of the suit, plus exemplary damages in an amount up to the amount of unpaid wages, at the court's discretion. To file suit, the worker should consult a private attorney or public legal service provider.

Missouri

EQUAL PAY LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.400 - 290.460

GENERAL SUMMARY: No employer in Missouri may pay any female employee at a wage rate less than the rate paid to male employees in the same establishment for the same quantity and quality of work in the same classification. This does not prohibit pay variations between males and females on the basis of seniority, ability, skill, difference in duties, difference in shift, hours of work, or other reasonable differentiation or factors other than sex, when exercised in good faith.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provisions apply to agricultural employers, and protect agricultural workers, to the same extent as in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor and Industrial Relations Commission, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-2461). Any female who believes the wages paid to her are less than the wages to which she is entitled under the equal pay law may file a complaint with the Commission, which is obligated to mediate the dispute.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any female employee with a wage claim based on unlawful sex discrimination may institute civil action against the employer to recover the unpaid wages, together with the costs of the suit, using a private lawyer or public legal service provider. Court action may not be commenced more than 6 months after the date of the alleged violation.

Montana

EQUAL PAY LAW

STATUTORY CITATION: Mont. Code § 39-3-104

GENERAL SUMMARY: It is unlawful for anyone in Montana to employ women in any occupation for compensation less than that paid to men for equivalent service, or for the same amount or class of work, at the same place of employment. PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies to agricultural and non-agricultural employment without distinction.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807). A woman who has not received full wages as a result of sex discrimination on the job may file a claim with the Bureau. An employer who violates the equal pay law is subject to a criminal fine, as well as liability for unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

EQUAL PAY LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1219 - 48-1227.01

GENERAL SUMMARY: With respect to employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, the practice of paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs with comparable requirements constitutes unlawful sex discrimination.

The prohibition against unequal pay does not, however, preclude wage differentials based on seniority, merit, quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to agricultural employers — and protects agricultural employees — on the same terms as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112). Representatives of the Commission may enter any place of employment to inspect and copy payroll and related records, observe employment operations and duties, question workers, and obtain other information necessary to the proper enforcement of the equal pay law. At the written request of a worker claiming to have been paid less than the wage to which he or she is entitled under the equal pay provision, the Commission may bring legal action on the worker's behalf to collect the unpaid wages, but generally only after making an effort to resolve the claim informally. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of the equal pay law has the option of filing a civil suit to recover unpaid wages directly, using a private attorney or public legal service provider. In a suit brought by the worker, if the court rules in the worker's favor and the violation is deemed to have been willful, the employer is liable not only for the unpaid wages, but an additional equal amount as liquidated damages.

Nevada

WAGE, HOUR, AND WAGE PAYMENT LAWS (EQUAL PAY)

STATUTORY CITATION: Nev. Rev. Stat. § 608.017

GENERAL SUMMARY: Chapter 608 of the Nevada statutes regulates wages, hours and wage payments in the state, and includes a provision outlawing wage discrimination on the basis of sex. The equal pay provision applies to all private employment in Nevada, without exception.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for any employer to pay lower wages to one employee than the wages paid to an employee of the opposite sex in the same establishment who performs equal work which requires equal skill, effort and responsibility and which is performed under similar working conditions. The payment of unequal wages is not deemed discriminatory where such wages are paid pursuant to a seniority system, a merit system, a compensation system under which wages are determined by the quality or quantity of production, or a wage differential based on factors other than gender.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

PRIMARY ENFORCEMENT AGENCY – Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). The Commissioner is empowered to investigate claims of discriminatory wages and to take legal action to enforce compliance. Employers who violate the equal pay provision are liable for the unpaid wages and are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

EQUAL PAY LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 275:36 - 275:41-d

GENERAL SUMMARY: It is unlawful for most New Hampshire employers to discriminate between employees on the basis of sex, by paying employees of one sex at a rate less than the rate paid to employees of the other sex for equal work that requires equal skill, effort and responsibility and is performed under similar working conditions. Wage variations are permitted, however, when based on a seniority system, a merit or performance-based system, a system that measures earnings by quantity or quality of production, expertise, shift differentials, or a demonstrable factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law does not apply to persons engaged in agricultural service.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

New Jersey

○ WAGE DISCRIMINATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56.1 - 34:11-56.11

GENERAL SUMMARY: With certain exceptions, employers in New Jersey may not discriminate in any way in the rate or method of payment of wages to any employee because of the employee's sex. Pay differentials based on reasonable factors other than sex are not deemed discriminatory for these purposes.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination law does not apply to persons employed on a farm.

ADMINISTRATION AND ENFORCEMENT

 $PRIMARY\ ENFORCEMENT\ AGENCY-Division\ of\ Wage\ and\ Hour\ Compliance,\ New\ Jersey\ Department\ of\ Labor\ and\ Workforce\ Development,\ Trenton,\ New\ Jersey\ 08625.$

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

FAIR PAY FOR WOMEN ACT

STATUTORY CITATION: N.M. Stat. §§ 28-23-1 - 28-23-6

GENERAL SUMMARY: Virtually all New Mexico employers who have 4 or more employees are prohibited from discriminating between employees on the basis of sex, by paying wages to employees at a rate less than the rate the employer pays to employees of the opposite sex in the same establishment for equal work, on jobs requiring equal skill, effort and responsibility and that are performed under similar working conditions. The only exceptions are where payment is made pursuant to a seniority system, a merit system, or a system that measures earnings by quantity or quality of production.

PROVISIONS APPLICABLE TO AGRICULTURE: The Fair Pay for Women Act applies to agricultural employers, and protects agricultural workers, to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

PRIMARY ENFORCEMENT AGENCY — A worker aggrieved by an alleged violation of this law may take action against the employer involved in civil court, using a private attorney or public legal service provider. A complaint in civil court must be brought no later than 2 years from the last date of the worker's employment. An employer found to have violated the Act is liable for actual and punitive damages up to *three times* the amount of unpaid wages involved, plus court costs and attorney's fees; recovery of unpaid wages is limited to 6 years prior to the date of the last violation of the Act. In addition, the court may also order that the complainant be hired, reinstated or promoted, depending on the circumstances of the case.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – In lieu of filing suit in court, an aggrieved employee may file a discrimination claim with the state agency responsible for enforcing the Human Rights Act (see previous entry). PRIVATE CIVIL ACTION — As noted above, the Fair Pay for Women Act may be enforced through the state court system.

New York

WAGE PAYMENT LAWS (EQUAL PAY)

STATUTORY CITATION: N.Y. Labor Law § 194

GENERAL SUMMARY: No employee in the private sector may be paid a wage at a rate less than that at which an employee of the opposite sex in the same establishment is paid for equal work on a job whose performance requires equal skill, effort and responsibility, and which is performed under similar working conditions. Employers are not, however, prohibited from using pay differentials based on a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or any other factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies to agricultural employment the same as employment in any other industry or trade.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Through its district offices, this agency is authorized to investigate complaints under the wage payment laws, including charges of unlawful sex discrimination in the payment of compensation. At its discretion, the Department may attempt to resolve disputes over equal pay, may take assignment of related wage claims, and may institute criminal prosecution for any violation. Failure to pay wages in conformity with the equal pay provision is also a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has been paid less than full wages as a result of illegal sex discrimination has a right to sue the employer in a private civil action, for recovery of the unpaid wages, damages and attorney's fees. Any such action must be commenced within 6 years from the date the wages were due.

North Dakota

EQUAL PAY LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-06.1-01 - 34-06.1-09

GENERAL SUMMARY: It is illegal for an employer to discriminate in the payment of wages in any occupation, by compensating an employee at a rate less than the rate paid to an employee of the opposite sex in the same establishment, for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Wage differentials, however, that are paid pursuant to an established seniority system, merit increase system or similar program that does not discriminate on the basis of sex generally are not regarded as unlawful.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law implicitly applies to agricultural employers and protects agricultural workers to the same extent as employers and workers in other industrial sectors.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

PRIMARY ENFORCEMENT AGENCY – Human Rights Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). With the consent of the employer or with a valid court order, representatives of the Department may enter any place of employment to inspect and copy payroll records, observe employment activities, question employees, and take other steps to determine compliance with the equal pay law. At the request of a worker paid less than the wage to which he or she is entitled under the law, the Department may bring legal action against the employer on the worker's behalf to collect the unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Instead of submitting an equal pay complaint to the Department, a worker may elect to file suit against the offending employer directly, using an outside attorney. Court action must be undertaken no later than 2 years after the claim arises. In a suit brought by the worker for a willful violation, the employer is liable in the amount of the worker's unpaid wages, plus an additional equal amount as liquidated damages.

Ohio

MINIMUM FAIR WAGE STANDARDS LAW (WAGE DISCRIMINATION)

STATUTORY CITATION: Ohio Rev. Code § 4111.17

GENERAL SUMMARY: No employer in Ohio may discriminate in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry, by paying wages to any employee at a rate less than the rate paid another employee at the same establishment for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar conditions. This provision does not, however, preclude wage differentials paid pursuant to a seniority system, a merit system, a system which measures earnings by the quantity or quality of production, or any similar pay arrangement in which wage levels are determined by factors other than race, color, religion, sex, age, national origin, or ancestry.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage discrimination provision generally applies to all Ohio employers, agricultural and non-agricultural alike.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). Any worker who has received less than equal wages as a result of an apparent violation of the wage discrimination provision may file a claim with the Department, which is authorized to accept assignment of the claim and sue on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee discriminated against in violation of this provision may sue in civil court to recover *two times* the amount of the difference between the wages actually received by the claimant and the wages received by a person performing equal work for the employer, from the date of commencement of the violation. A judgment in the worker's favor may also include court costs and attorney's fees. Whether filed by the worker or by the Department of Commerce, civil action must be initiated within one year after the date of violation.

Oklahoma

EQUAL PAY LAW

STATUTORY CITATION: Okla. Stat. Title 40, §§ 198.1 - 198.2

GENERAL SUMMARY: It is unlawful for any employer in Oklahoma to willfully pay wages to a female employee at a rate less than the rate paid to a male employee for comparable work for the same employer, on jobs which have comparable requirements relating to skill, effort and responsibility. This prohibition does not, however, preclude wage distinctions under a compensation system based on seniority, merit, quantity or quality of production, or any other factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to agricultural and non-agricultural employment alike.

SPECIAL NOTES OR ADVISORIES

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department is obligated to investigate reported or suspected violations of the equal pay provision, and is authorized to take legal action against any employer found to have paid discriminatory wages because of an employee's sex. Violators are subject to a fine of from \$25 to \$100 for each offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

EQUAL PAY LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 652.210 - 652.230

GENERAL SUMMARY: No private employer in Oregon (among others) may pay wages to any employee at a rate less than that at which the employer pays wages to employees of the opposite sex for work of comparable character, the performance of which requires comparable skills. This prohibition does not apply where payment is made pursuant to a seniority or merit system which does not discriminate on the basis of sex, or where a wage differential is based in good faith on factors other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to agricultural employment to the same extent as in any other industry.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discriminate in the payment of wages against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). The Bureau has statutory authority to investigate and attempt to resolve any complaint filed by a worker seeking unpaid wages. At the worker's request, the Bureau may take assignment of a wage claim and initiate an administrative proceeding to collect it; unless the amount of the wage claim and penalty specified in a final order by the Bureau is paid, the order constitutes a judgment against the employer, enforceable as if issued by a court of law. In lieu of an administrative action, the Bureau also has authority to file suit in civil court to collect a claim whenever circumstances warrant.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). The Wage and Hour Division may refer cases under this law to the Bureau's Civil Rights Division, because the provisions in the civil rights laws forbidding sex discrimination in the payment of wages are broader and afford more ample rights.

PRIVATE CIVIL ACTION — As an alternative to a complaint to the Bureau, any worker who has not received full compensation as a result of discriminatory wage rates based on sex has a right to civil action against the employer, for the amount of the unpaid wages to which the worker is entitled for the one-year period preceding the suit and an additional equal amount as liquidated damages, together with court costs and attorney's fees.

Pennsylvania

EQUAL PAY LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 336.1 - 336.10

GENERAL SUMMARY: In general, the Equal Pay Law forbids employers in Pennsylvania from paying wages to any worker at a rate less than the rate paid to employees of the opposite sex in the same establishment, for work under comparable conditions and on jobs whose performance requires comparable skills. Seniority or merit pay systems, however, which do not discriminate on the basis of sex are generally not regarded as unlawful.

The law applies only to employees who are not already protected by the wage discrimination provision in the federal Equal Pay Act (see entry, U.S. — Civil Rights — Wage Discrimination).

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment in Pennsylvania that did not employ more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) is subject to the prohibition against gender-related wage discrimination under the state Equal Pay Law.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department have authority to enter any employer's place of business to inspect and copy payroll and other employment records, to observe work operations, to question employees, and to obtain other information necessary to the enforcement of the Equal Pay Law. At the request of a worker paid less than full wages as a result of unlawful sex discrimination, the Department may bring required legal action on the worker's behalf to collect the claim. In addition to civil liability, violators are also subject to a criminal fine of from \$50 to \$200 or imprisonment for from 30 to 60 days.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker or group of workers with a claim for unpaid wages under the Equal Pay Law may bring suit in civil court in lieu of filing an administrative claim with the Department. An employer who willfully and knowingly violates these provisions is liable to the worker or workers affected in the amount of their unpaid wages and, in addition, an equal amount as liquidated damages, plus attorney's fees and court costs. Civil action must be commenced within 2 years from the date of the alleged violation.

SEASONAL FARM LABOR ACT (EQUAL PAY)

STATUTORY CITATION: 43 Pa. Stat. § 1301.204

GENERAL SUMMARY: The Seasonal Farm Labor Act includes a provision outlawing wage discrimination on account of sex.

SPECIFIC TERMS AND CONDITIONS: No employer of seasonal farm labor may pay wages to such workers at a rate less than the rate the employer pays to workers of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. This does not preclude payment of unequal wages pursuant to an established system which measures earnings by quantity or quality of production.

As used here, the term "seasonal farm labor" refers, in large part, to any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Representatives of the Department have authority to enter an employer's place of business to inspect payroll and other employment records, to observe work operations, to question employees, and to obtain other information necessary for the enforcement of the equal pay provision in the Seasonal Farm Labor Act. At the request of a worker paid less than full wages as a result of unlawful sex discrimination, the Department may bring required legal action on the worker's behalf to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

SEX DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 1321 – 1341

GENERAL SUMMARY: Chapter 75 of the labor statutes guarantees the equal right of men and women to employment, and prohibits certain unfair employment practices which infringe on that right. These provisions apply to agricultural and non-agricultural employment without distinction.

SPECIFIC TERMS AND CONDITIONS: In general, it is unlawful for an employer:

- (1) To suspend, dismiss or refuse to hire a person, or to discriminate against a person with respect to wages, employment terms or working conditions, on account of the person's sex.
- (2) To limit, segregate or classify employees or job applicants in any way that could deprive anyone of a job opportunity, or adversely affect employment status, on account of the individual's sex.
- (3) To include in a notice or advertisement of a job opening any preference, limitation or specification with respect to sex, unless sex is a bona fide occupational requirement.
- (4) To offer or provide fringe benefits to employees of one sex (or to their spouses and dependents) under conditions different from those applicable to fringe benefits offered or provided to employees of the opposite sex (or to their spouses and dependents).

Comparable acts by employment agencies and labor unions are also illegal.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Antidiscrimination Unit, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any person who has been subjected to prohibited employment discrimination based on sex may file a complaint with the Department. Acting on such a complaint, or on its own initiative, the Department may inspect personnel records, interview employees, and take other investigatory action at any place of employment, and may hold related hearings. An order against an employer found to have committed sex discrimination in employment may be enforced by the Department through petition to superior court. Violation of these provisions is also deemed a criminal misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by unlawful sex discrimination related to employment may bring suit against the offending party in court, for recovery of damages and other appropriate relief. Anyone found in violation is generally liable to the worker in an amount equal to twice the dollar-value of damages actually suffered, plus court costs and attorney's fees.

Rhode Island

EQUAL PAY LAW

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-6-17 - 28-6-21

GENERAL SUMMARY: In most trades and industries in Rhode Island, it is illegal for an employer to discriminate between the sexes in the payment of wages, or to pay a female at a wage rate less than the rate received by males in the same establishment for equal work or work on the same operations. Variation in pay rates is not prohibited, however, when the differential is based on seniority, experience, training, skill, ability, difference in duties, difference in shift, or any other reasonable distinction other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: Rhode Island's equal pay law applies implicitly to agricultural employers, and protects agricultural workers, to the same extent as their counterparts in other employing sectors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation is punishable by a criminal fine, imprisonment, or both such penalties and should be reported to the Department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550). At the request of any worker who receives less than full wages as a result of unlawful sex discrimination, the Department may take assignment of the claim in trust and bring necessary legal action against the employer to collect it. In addition to the unpaid wages involved, the employer is liable to the claimant for liquidated damages in an equal amount. Violation of these provisions is also a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative claim with the Department of Labor, a worker aggrieved by an act of wage discrimination based on sex may recover unpaid wages and damages in a direct civil action against the employer, using a private attorney or public legal service provider.

South Dakota

EQUAL PAY LAW

STATUTORY CITATION: S.D. Codified Laws §§ 60-12-15 - 60-12-21

GENERAL SUMMARY: No employer may pay wages to any employee in any occupation in South Dakota at a rate less than the employer pays an employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility, but not to physical strength. This does not preclude use of wage differentials paid under established seniority systems, job descriptive systems, or merit increase systems which do not discriminate on the basis of sex. Employers of more than 25 workers are required to maintain a record of the earnings, wage rates, job classifications, and other employment data on each employee.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to farm operators and other agricultural establishments, and protects agricultural workers, to the same extent as their counterparts in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

PRIMARY ENFORCEMENT AGENCY – Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). This agency has authority to investigate and prosecute all violations of the state labor laws, including the equal pay provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is paid less than full wages in violation of the equal pay law has a right to recover the unpaid amount, plus court costs and attorney's fees, in a civil suit against the offending employer. Any such action must be filed no later than 2 years after the violation occurs.

Tennessee

WAGE REGULATIONS (SEX DISCRIMINATION)

STATUTORY CITATION: Tenn. Code §§ 50-2-201 - 50-2-207

GENERAL SUMMARY: No employer may discriminate between employees in the same establishment on the basis of sex, by paying an employee a salary or wage rate less than the rate paid to an employee of the opposite sex for comparable work on jobs requiring comparable skill, effort and responsibility and performed under similar working conditions. Employers are not, however, barred from using wage differentials based on a seniority or merit system, a system which measures earnings by quality or quantity of production, or any other reasonable compensation plan tied to factors other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: On the same terms as coverage in non-agricultural sectors, Tennessee's sex discrimination provisions apply to all agricultural employers and covers all agricultural workers who are not already protected by the federal Equal Pay Act (see entry, U.S. — Civil Rights — Wage Discrimination).

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). At the request of a worker claiming to have been paid less than the wage to which the worker is entitled due to an act of sex discrimination, the Department may investigate the claim and take action on the worker's behalf to collect it. In addition to civil liability, the employer involved in any such violation is also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of these provisions may bring suit against the offending employer directly, using a private attorney or public legal service provider. Court action may be commenced no later than 2 years after the claim arises. An employer who violates the sex discrimination law is liable to the worker affected in the amount of the unpaid wages and, in a case of willful violation, an additional equal amount as liquidated damages. An award to the worker may also include reasonable attorney's fees and court costs.

Virginia

EQUAL PAY LAW

STATUTORY CITATION: Va. Code § 40.1-28.6

GENERAL SUMMARY: No employer in Virginia may discriminate between employees on the basis of sex, by paying wages to any worker at a rate less than the rate the employer pays workers of the opposite sex in the same establishment for equal work, on jobs which require equal skill, effort and responsibility and are performed under similar working conditions. This does not preclude an employer's use of a seniority system, merit increase program, a system which measures earnings by quantity or quality of production, or any other wage differential based on any factor other than sex.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to all agricultural and non-agricultural employers not subject to the federal Equal Pay Act (see entry, U.S.—Civil Rights—Wage Discrimination).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104). The Division is authorized to conduct investigations to determine if complaints charging unequal pay for equal work because of sex are valid. Whenever such a violation is confirmed, the Division will advise the employer to correct the condition, but the agency does not have the statutory right to take legal action against a violator to eliminate the discrimination or to recover wages owing to a worker as a result.

PRIVATE CIVIL ACTION — A worker who has not received full wages because of unlawful sex discrimination may bring suit against the employer, using private legal counsel. Any such action may be commenced within 2 years after the claim arises, and a worker whose wages are found to have been wrongfully withheld in violation of the equal pay law has a right to recover damages equal to twice the amount of the unpaid wages.

Washington

INDUSTRIAL WELFARE LAWS (EQUAL PAY)

STATUTORY CITATION: Wash. Rev. Code § 49.12.175

GENERAL SUMMARY: It is a misdemeanor for an employer in the state of Washington to discriminate between the sexes in the payment of wages, by paying females a lower wage or salary than that paid to males similarly employed. However, the use of pay differentials based in good faith on factors other than gender does not constitute discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay provision applies in agriculture to the same extent as in any other employing sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - This provision is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has received less than full compensation on account of sex discrimination prohibited by this provision is entitled to recover the unpaid wages in a civil suit, using a private attorney or public legal service provider.

Wyoming

EQUAL PAY LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-4-301 - 27-4-304

GENERAL SUMMARY: Chapter 4, Article 3 of the state labor laws forbids an employer to discriminate between employees within the same establishment on the basis of gender, by paying wages to workers at a rate less than the rate the employer pays to workers of the opposite gender for equal work, on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions. Wage differences are not regarded as discriminatory when made pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other differential based on a factor other than gender.

PROVISIONS APPLICABLE TO AGRICULTURE: The equal pay law applies to agricultural employers, and protects agricultural workers, to the same extent as their counterparts in other industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation is regarded as a misdemeanor and exposes the violator to the same criminal penalties noted below.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). Upon submission of a claim by a worker alleging payment of less than the wage to which he or she is entitled under these provisions, the Department must investigate and determine the validity of the charges. If the claim is substantiated, the Department may bring legal action on the worker's behalf to collect the unpaid earnings, plus an additional equal amount as liquidated damages. Willful violation of the equal pay law is also a criminal offense, carrying a possible fine of up to \$200, a prison term of up to 180 days, or both fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of enforcement by the Department, a worker may recover unpaid wages and damages and seek other relief from a violation of the equal pay provisions, by filing a civil suit against the employer directly, utilizing legal counsel of the worker's own choosing.

U.S.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

STATUTORY CITATION: 29 USC §§ 621 - 634

RELATED REGULATIONS: 29 CFR Parts 1625 - 1627

GENERAL SUMMARY: The Age Discrimination in Employment Act protects persons who are at least 40 years of age against arbitrary age discrimination by employers engaged in any industry affecting commerce — including agriculture — and who have 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Employment agencies that regularly procure employees for at least one covered employer, as well as most labor organizations with 25 or more members, are also subject to the Act.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is unlawful for employers subject to the Act to fail or refuse to hire a job applicant, to harass or discharge an employee, or to otherwise discriminate against an individual with respect to compensation and other terms or conditions of employment, because of the individual's age. Likewise, employers may not limit, segregate or classify employees in any way which would deprive or tend to deprive a person of employment opportunities, or otherwise adversely affect his or her status as an employee, by reason of the person's age.

EXCEPTIONS — The Act does not forbid employment practices based on age where age is a bona fide occupational qualification, nor does it bar an employer from observing the terms of a bona fide seniority or benefit plan or from differentiating among employees on the basis of reasonable factors other than age.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee or job applicant because the employee or applicant has filed a complaint, participated in a proceeding, or opposed an illegal practice under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000). The Commission may conduct investigations, gather compliance data, enter and inspect workplaces, review personnel records, and interview employees. In general, any worker 40 years of age or older who has been denied rights protected under the Age Discrimination in Employment Act may file a complaint with the Commission at any time within 180 days after the apparent violation took place. Before instituting civil action to enforce the Act, the Commission must attempt to eliminate the alleged discriminatory practice and effect voluntary compliance through informal methods of conciliation, conference and persuasion. In any judgment in a complainant's favor, the Act authorizes recovery of back wages and, in instances of willful violations, liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Commission may delegate primary responsibility for acting on civil rights complaints brought to its attention to any state or local fair employment practices agency which enforces anti-discrimination provisions similar to those described under this law and which meets certain other criteria. Puerto Rico and all states except Arkansas and Mississippi have statewide or local agencies to which EEOC will defer all or certain types of charges under the Act.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who has been adversely affected by a violation of the Age Discrimination in Employment Act may bring suit against the employer or other offending party. However, in no event may an individual commence private action under the Act until 60 days after a charge of age discrimination has been filed with the Commission, and the right to sue privately ends once the Commission initiates court action to enforce the employee's rights under the Act.

Alabama

ALABAMA AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Ala. Code 1975 §§ 25-1-20 - 25-1-29

GENERAL SUMMARY: It is unlawful for an employer who has 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year to discriminate against a worker 40 years of age or older in hiring, job retention, compensation or other terms or conditions of employment. This law also prohibits age discrimination against persons age 40 and over by employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they employ at least 20 workers for each working day in each of 20 or more calendar weeks in the current or preceding year, farm operators and other agricultural establishments are subject to the Act to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.* A person who has suffered age discrimination at the hands of a subject employer, employment agency or labor organization may bring a civil action in the state circuit court of the county in which the person was or is employed. The person is not required to file an administrative complaint or charge before filing suit in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Georgia

GENERAL LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: Ga. Code § 34-1-2

GENERAL SUMMARY: Chapter 1 of the state labor laws includes a provision prohibiting any person, firm or other entity conducting business in Georgia from firing, or refusing to hire, employ or license, any individual between the ages of 40 and 70 solely on the basis of age, when the reasonable demands of the job do not require such an age distinction and the individual is qualified physically and mentally and by training and experience to satisfactorily perform the job. The law provides for exceptions in the case of executive and policy-making positions, and where compulsory retirement systems are not used as a subterfuge to evade the anti-discriminatory intent of the law.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law applies without distinction between agricultural and non-agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who has been subjected to age discrimination in violation of this law must seek redress through the state civil courts, using a private attorney or public legal service provider.

Indiana

O AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ind. Code § 22-9-2-1 - 22-9-2-11

GENERAL SUMMARY: With few exceptions, it is unlawful for an employer to dismiss from employment, or to refuse to employ or rehire, any person who is at least 40 years of age but below the age of 75 solely because of the person's age.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law does not apply to anyone employed as a farm laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

KANSAS AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Kan. Stat. §§ 44-1111 - 44-1121

GENERAL SUMMARY: The Kansas Age Discrimination in Employment Act makes it an unlawful employment practice for an employer of 4 or more workers to discriminate against a person 40 years of age or older, by refusing to hire, discharging, segregating, limiting, or otherwise discriminating against any such person because of age. The Act enumerates related practices by employers, employment agencies and labor organizations that are likewise illegal. Among certain other exceptions, it is not unlawful to make employment decisions based on age where age is a bona fide occupational qualification necessary to the normal operation of the particular business, or to observe the terms of a bona fide seniority system or employee benefit plan which is not simply a subterfuge to evade the purposes of the state civil rights laws.

PROVISIONS APPLICABLE TO AGRICULTURE: The Age Discrimination in Employment Act applies to agricultural employers with 4 or more workers, to the same extent as in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — Without the worker's express or implied consent, an employer is not permitted to reduce the wage rate of any worker or otherwise alter the terms or conditions of a worker's employment in order to comply with the Act.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206). The Commission is responsible for investigating all properly filed complaints charging age discrimination under the Act. The Commission must process such complaints in the same manner as prescribed in the Kansas Act Against Discrimination. Violation of the age discrimination in employment provisions is a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$500, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

STATE LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 24A – 24J

GENERAL SUMMARY: With few exceptions, the dismissal from private-sector employment of any person over the age of 40, or refusal to employ such a person, because of the person's age, is a criminal offense, punishable by a fine of up to \$500. Any contract, agreement or understanding that prevents the private employment of individuals over 40 on the basis of age is generally null and void. After a formal hearing and a finding that an employer has committed an act of age discrimination, the state enforcement agency may publish in one or more newspapers of general circulation the employer's name and a notice of the employer's violation of this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law does not apply to persons employed as farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Massachusetts Attorney General, Boston, Massachusetts 02108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Minnesota

STATE LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: Minn. Stat. § 181.81

GENERAL SUMMARY: With only narrow exceptions, it is unlawful for any private-sector employer in Minnesota to refuse to hire a person who is under 70 years of age, or to discharge, retire or demote a person under 70, because of the person's age.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against age discrimination implicitly applies to agricultural employers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). The Department is responsible for advising workers and employers of their rights and duties under the age discrimination provision and is authorized to attempt through conciliation to resolve disputes involving job-related age discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker under the age of 70 who has suffered from an act of employment discrimination due to age may bring suit in district court, utilizing a private attorney or a public legal service provider. If a violation is found, the court may award reinstatement, back pay, or some other form of affirmative action, plus court costs and attorney's fees.

Nebraska

AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1001 - 48-1010

GENERAL SUMMARY: The Age Discrimination in Employment Act generally outlaws employment discrimination on the basis of age, when committed by employers who have 20 or more employees for each working day in each of 20 different calendar weeks in the current or preceding calendar year. The law applies to agricultural and non-agricultural employment without distinction.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for an employer subject to the Act to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to employment conditions because of the individual's age, when the reasonable demands of the position do not require such an age distinction. It is likewise illegal for an employer to willfully utilize an employment agency, labor organization or any other source of job applicants in the hiring or recruitment of individuals for employment when the employer is aware that the agency or organization discriminates against job-seekers on the basis of age.

The Act bans age discrimination only against persons who are at least 40 years of age, and permits certain age distinctions when age is a bona fide occupational qualification reasonably necessary to the normal operations of the business involved, or when the differentiation is based on reasonable factors other than age, such as physical conditions.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112). Anyone aggrieved by a suspected violation of the Act may file a complaint with the Commission, which must investigate the charges. When the evidence indicates that unlawful age discrimination has occurred, the Commission is authorized to bring civil action to compel compliance and enforce the rights of the complainant. A charge must be filed no later than 300 days after the alleged discriminatory act occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Equal Opportunity Commission does not file suit within 60 days after receipt of a complaint, the person aggrieved may take private legal action for relief on his or her own, through a private attorney or a public legal service provider. Filing of a civil suit by either the Commission or the complainant bars the filing of such an action by the other.

North Dakota

GENERAL LABOR LAWS (AGE DISCRIMINATION)

STATUTORY CITATION: N.D. Cent. Code § 34-01-17

GENERAL SUMMARY: No one carrying on any business in North Dakota may refuse to hire a job applicant or discharge an employee solely on the basis of age, when the reasonable demands of the position do not require an age distinction and the individual is otherwise qualified for the job. This provision does not, however, preclude operation of any retirement policy or system as long as the system is not used merely to evade the statutory prohibition against age discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination provision applies to all employment in North Dakota, without respect to industry or occupation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – None. A violation of the age discrimination in employment provision is defined as a Class B misdemeanor and can be prosecuted as such by state's attorneys.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who has suffered damages due to an act of age discrimination in employment may pursue civil action against the employer involved, using a private attorney or public legal service provider.

Ohio

AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ohio Rev. Code § 4112.14

GENERAL SUMMARY: It is unlawful for an employer to discriminate against an applicant with respect to a job opening, or to discharge an employee without just cause, when the applicant or employee is 40 years of age or older, is physically able to perform the duties of the job, and otherwise meets the established requirements of the position.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law implicitly applies to all agricultural employers, and protects all farmworkers in Ohio, the same as their counterparts in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Anyone 40 years of age or older who has been subjected to age discrimination in violation of this provision may file a civil suit against the offending employer, using a private attorney or public legal service provider. If the complaint is sustained, the court may order appropriate corrective action by the employer, including hiring or reinstatement on the job, plus court costs and attorney's fees. Civil action under the wage discrimination in employment law precludes bringing suit or filing an administrative complaint under the state civil rights law (see previous entry).

Washington

AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Wash. Rev. Code § 49.44.090

GENERAL SUMMARY: In general, it is an unfair practice for an employer to refuse to hire a job applicant, to fire an employee, or to discriminate against an applicant or employee in promotion, compensation, or other terms or conditions of employment, because the applicant or employee is 40 years of age or older.

Subject to state approval, however, an employer may establish reasonable minimum and maximum age limits for job candidates when the position involved requires extraordinary physical effort, endurance or training.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment provisions apply equally to agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department has authority to enforce all state laws relating to employment, including the age discrimination provisions. Representatives of the Department may enter any place of employment for the purpose of inspecting working conditions and investigating reported or suspected violations of the labor laws.

Connecticut

STATE WHISTLEBLOWER LAW

STATUTORY CITATION: Conn. Gen. Stat. § 31-51m

GENERAL SUMMARY: It is illegal for an employer to discharge, discipline or otherwise penalize an employee because the employee, among other things, reports a violation or suspected violation of any state or federal law or regulation to a public body. Likewise, retaliation against an employee for having participated in an investigation, hearing or inquiry requested by a public body is also unlawful.

PROVISIONS APPLICABLE TO AGRICULTURE: This law applies to virtually all public- and private-sector employers and employees in Connecticut, without regard to industry or occupation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After exhausting any available administrative remedies, a worker who is fired or disciplined in any other way in violation of this provision may file a civil action in superior court against the offending employer, using a private attorney or public legal service provider. The action must generally commence no later than 90 days after the violation is alleged to have occurred. If the charge is sustained, the court may order reinstatement to the job, payment of back wages, or restitution of employee benefits to which the worker would otherwise have been entitled if the violation had not occurred. The court may also award reasonable attorney's fees and court costs.

Florida

WHISTLEBLOWER LAW

STATUTORY CITATION: Fla. Stat. §§ 448.101 - 448.105

GENERAL SUMMARY: Chapter 448 of the Florida statutes includes a provision making it illegal for employers of 10 or more employees to fire, suspend, demote or take any other adverse employment action against a worker for having disclosed, or threatened to disclose, to an appropriate governmental agency an activity, policy or practice of the employer that is in violation of federal, state or local law. It is also unlawful for an employer to take retaliatory personnel action against a worker who has testified or provided information to a governmental agency conducting an investigation, hearing or inquiry into an employer's alleged violation of any law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: Florida's whistleblower provision protects virtually all employees in the state, and applies to virtually all employers with 10 or more employees, without regard to occupation or industry.

SPECIAL NOTES OR ADVISORIES

SUPERVISOR NOTIFICATION — Before a worker may claim damages for disclosing an employer's unlawful activity, policy or practice, the worker must first bring the alleged violation to the attention of a supervisor or the employer, in writing, and give the employer a reasonable opportunity to correct the activity, policy or practice.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has been subjected to retaliation in violation of this law may take action in civil court against the employer involved, using a private attorney or public legal service provider. The suit must be filed within 2 years after the employee discovered that the retaliatory action was taken, or within 4 years after the action was taken, whichever is earlier. If the court rules in the worker's favor, it may order reinstatement of the worker to the job, compensation for lost wages and benefits, and other monetary damages.

Hawaii

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-61 - 378-69

GENERAL SUMMARY: Virtually all public and private employers in Hawaii are prohibited from firing, threatening or otherwise discriminating against an employee with regard to the terms and conditions of employment, because the employee or a person acting on the employee's behalf reports or plans on reporting a violation or suspected violation of a federal, state or local law. It is also illegal for an employer to discriminate against an employee on grounds that the employee is requested to participate in an investigation, hearing or inquiry held by a public body or court of law.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural employers and workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - As noted below, this law is enforced in civil court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who alleges a violation of the Act may bring civil action for damages or other relief, using a private attorney or public legal service provider; such an action must be filed within 2 years after the alleged violation occurred. If the charge is sustained, the court may order reinstatement of the worker, payment of back wages, reinstatement of benefits, actual damages, or any combination of these remedies, plus court costs and attorney's fees. Employers found in violation are also subject to civil money penalties ranging from \$500 to \$5,000 for each violation.

Maine

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 831 - 840

GENERAL SUMMARY: It is illegal for virtually any public or private employer in Maine to discharge, threaten or otherwise discriminate against an employee in the terms and conditions of employment, because the employee reports to the employer, or to a public officer or agency, what the employee has reasonable cause to believe is a condition or practice that would put the health or safety of the employee or anyone else at risk. Employers are also prohibited from taking discriminatory employment action against a worker for having been requested to take part in an investigation, hearing or inquiry by a public agency or court of law.

Before a worker's claim of unlawful discrimination under the whistleblower law can be investigated and enforced, the worker is generally required to first bring the alleged violation, condition or practice to the attention of a person having supervisory authority in the workplace and allow the employer a reasonable opportunity to correct the violation, condition or practice.

PROVISIONS APPLICABLE TO AGRICULTURE: The Whistleblowers' Protection Act applies implicitly to agricultural employers, and protects agricultural workers, to the same extent as their counterparts outside agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maine Human Rights Commission, Augusta, Maine 04333 (207-624-6290). A worker alleging a violation of his or her rights under these provisions, and who has complied with the requirement to notify a supervisor in an attempt to resolve the issue informally, may file a complaint with the Commission for action under the Maine Human Rights Act, summarized above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 15.361 - 15.369

GENERAL SUMMARY: The Whistleblowers' Protection Act makes it unlawful for virtually any public or private employer in Michigan to fire, threaten or otherwise discriminate against an employee regarding the terms and conditions of the job, on grounds that the employee or a person acting on the employee's behalf reported or plans to report a suspected violation of federal, state or local law to a public agency or officer. Employers are also prohibited from discriminating against an employee because he or she is requested by a public agency or court of law to participate in an investigation, hearing or inquiry conducted by that agency or court.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act protects farmworkers, and applies to farm employers, to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - As noted below, this law is enforced in civil court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who alleges a violation of the Whistleblowers' Protection Act may bring civil action against the employer involved, using a private attorney or public legal service provider. Any such action must be filed within 90 days after the occurrence of the alleged violation. If the charge is sustained, the court may order the worker's reinstatement, payment of back wages, actual damages, and other appropriate relief, plus court costs and reasonable attorney's fees.

Minnesota

■ STATE LABOR LAWS (DISCLOSURE OF INFORMATION BY EMPLOYEES)

STATUTORY CITATION: Minn. Stat. §§ 181.931 - 181.935

GENERAL SUMMARY: With virtually no exceptions, public and private employers in Minnesota are prohibited from firing, disciplining, threatening or otherwise discriminating against an employee because the employee:

- (1) In good faith reports a suspected violation of federal or state law to the employer, to a governmental agency, or to a law enforcement official.
- Is requested by a public body or office to participate in an investigation, hearing or inquiry.
- (3) Refuses the employer's order to perform an action that the employee believes violates federal or state law, and informs the employer that the order is being refused for that reason.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to agricultural employers — and protects agricultural workers — to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may take civil action against the employer involved, using a private attorney or public legal service provider. If the complaint is sustained, the court may order the worker's reinstatement, back pay and other appropriate relief, as well as court costs and attorney's fees.

New Hampshire

WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: N.H. Rev. Stat. §§ 275-E:1 - 275-E:9

RELATED REGULATIONS: N.H. Code Admin. R. Lab. 900

GENERAL SUMMARY: The Whistleblowers' Protection Act makes it illegal for an employer to harass, abuse, intimidate, discharge, threaten or otherwise discriminate against an employee because the employee (1) in good faith reports what he or she reasonably believes is a violation of a state or federal law or regulation, (2) objects to or refuses to participate in an activity that the employee, in good faith, believes is a violation of the law, (3) participates in an investigation, hearing or inquiry conducted by a governmental entity, including a court action, concerning allegations that the employer has violated a law, or (4) refuses to carry out a directive that violates a state or federal law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies to agricultural employers and protects agricultural workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). An employee who alleges a rights violation under the Whistleblower Protection Act, after making a reasonable attempt to address the adverse action using a grievance procedure or similar process available at the workplace, may request a hearing by the state labor commissioner's office. If a violation is confirmed, the agency may order reinstatement of the employee, payment of back wages, or other appropriate relief.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

CONSCIENTIOUS EMPLOYEE PROTECTION ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:19-1 - 34:19-14

GENERAL SUMMARY: Employers in New Jersey are prohibited from retaliating against an employee because the employee does any of the following:

- (1) Discloses or threatens to disclose to a supervisor, or to a public agency or official, an activity, policy or practice of an employer that the worker reasonably believes is in violation of a law or regulation, or is fraudulent or criminal.
- (2) Provides information to or testifies before a public body that is conducting an investigation, hearing or inquiry into a violation of law by an employer.
- (3) Objects to or refuses to participate in an activity, policy or practice that the worker reasonably believes is fraudulent, criminal, or in violation of the law.

The protection against retaliation does not apply to an employee's disclosure of information to a public body unless the employee has brought the perceived violation of the law to the attention of a supervisor of the employee, in writing, and has given the employer a reasonable opportunity to correct the unlawful activity, policy or practice involved.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies to agricultural employers and protects agricultural workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may, within one year thereafter, file a civil lawsuit against the offending employer, using a private attorney or public legal service provider. If the complaint is sustained, the court may order the complainant's reinstatement on the job, reinstatement of benefits, compensation for lost wages, and payment of reasonable court costs and attorney's fees. In addition, the court may order assessment of a civil penalty against the employer, ranging from \$10,000 for the first violation to \$20,000 for each subsequent violation.

New York

GENERAL LABOR LAWS (RETALIATORY ACTION BY EMPLOYERS)

STATUTORY CITATION: N.Y. Labor Law § 740

GENERAL SUMMARY: Employers in New York are prohibited from taking retaliatory personnel action against an employee because the employee discloses, or threatens to disclose, to a supervisor or to a public agency or official an activity, policy or practice of the employer that is in violation of a law or regulation, when the violation presents a substantial and specific danger to public health or safety. Employers are also forbidden to retaliate against a worker for (1) providing information to or testifying before any public body conducting an investigation, hearing or inquiry into an employer's violation of a law or regulation, or (2) refusing or objecting to participation in an activity, policy or practice in violation of a law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural and non-agricultural employment, without distinction.

SPECIAL NOTES OR ADVISORIES

REQUIRED NOTIFICATION — The protection of an employee against retaliation for disclosing an employer's unlawful activity to a public agency or official does not apply unless the employee has brought the unlawful activity to the attention of a supervisor and has afforded the employer a reasonable opportunity to take corrective action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An employee who has been the target of a retaliatory personnel action in violation of these provisions may file a civil suit against the employer involved, using a private attorney or public legal service provider. Such a suit must commence no later than one year after the date of the alleged retaliation. If the worker's complaint is found to be valid, the court may reinstate the worker, compensate the worker for lost wages and benefits, and award reasonable attorney's fees and court costs.

Ohio

WHISTLEBLOWER'S PROTECTION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4113.51 - 4113.53

GENERAL SUMMARY: An employee who learns of a violation of a federal or state law that his or her employer has authority to correct, and who reasonably believes that the violation is a criminal offense likely to cause imminent risk of physical harm to people or a hazard to public health or safety, is required to notify a supervisor or other responsible officer of the violation, in writing and in sufficient detail. If the employer does not correct the violation or make a reasonable and good-faith effort to do so within 24 hours after the employee's report to a supervisor, the employee may file a written report of the matter with a prosecuting attorney, a peace officer or other appropriate public official or agency.

In general, it is illegal for an employer to take any disciplinary or retaliatory action against an employee for making any such report.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions protect virtually all Ohio workers, and apply to virtually all Ohio employers, both agricultural and non-agricultural alike.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If an employer takes any disciplinary or retaliatory action against a worker because the worker reported unlawful activity within the employer's authority to correct, the worker may file suit in civil court for relief, using a private attorney or public legal service provider. The suit must be commenced within 180 days after the date the disciplinary or retaliatory action was taken. If the suit is successful, the court may award the worker back wages, reinstatement of employment and benefits, court costs and reasonable attorney's fees.

Oregon

CIVIL RIGHTS LAWS (WHISTLEBLOWING)

STATUTORY CITATION: Or. Rev. Stat. § 659A.199

GENERAL SUMMARY: Chapter 659A of the state statutes includes a provision declaring it an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to the terms and conditions of employment, because the employee has in good faith reported information that he or she believes is evidence of a violation of a state or federal law or regulation.

PROVISIONS APPLICABLE TO AGRICULTURE: The state whistleblower provision applies to virtually all Oregon employers, both agricultural and non-agricultural alike.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to retaliate against an employee because the employee has filed an administrative complaint with the enforcement agency charging a violation of the whistleblower provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). Any person who has been subjected to discrimination or retaliation by his or her employer for having reported evidence of a violation of state or federal law may file a written complaint with this agency, which is obligated to investigate the charge and take action to resolve it. A complaint must be filed no later than one year after the alleged discriminatory or retaliatory action occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative complaint with the Bureau of Labor and Industries, an aggrieved worker may take legal action in civil court against the employer involved, using a private attorney or public legal service provider.

Rhode Island

RHODE ISLAND WHISTLEBLOWERS' PROTECTION ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-50-1 - 28-50-9

GENERAL SUMMARY: It is illegal for an employer to discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation and other terms, conditions and privileges of employment for any of the following reasons:

- (1) The employee, or a person acting on the employee's behalf, has reported or is planning to report to a public agency or official a violation of state or federal law, whether the violation is about to occur or has already occurred.
- (2) The employee has been asked by a public agency or official to participate in an investigation, hearing or inquiry held by an agency or court of law.
- (3) The employee refuses to violate or assist in violating a federal, state or local law.
- (4) The employee has reported to the employer or to the employee's supervisor a violation of law that the employee believes has occurred or is about to occur.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act applies to agricultural employers and protects agricultural workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who alleges a violation of the Whistleblowers' Protection Act may file an action in civil court for injunctive relief, actual damages, or both, within 3 years after the occurrence of the alleged violation. Upon finding in the complainant's favor, the court may order reinstatement of the worker to the previous job, payment of back wages, and reinstatement of benefits, and may award court costs and attorney's fees.

Tennessee

WHISTLEBLOWER LAW

STATUTORY CITATION: Tenn. Code § 50-1-304

GENERAL SUMMARY: No employee may be fired solely for refusing to participate in, or for refusing to remain silent about, activities that are in violation of state or federal law or any regulation intended to protect the public health, safety or welfare.

PROVISIONS APPLICABLE TO AGRICULTURE: Tennessee's whistleblower provision protects agricultural workers and applies to agricultural employers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker terminated in violation of this provision may take action in civil court against the employer involved, using a private attorney or public legal service provider.

U.S.

IMMIGRATION AND NATIONALITY ACT (IMMIGRATION-RELATED EMPLOYMENT DISCRIMINATION)

STATUTORY CITATION: 8 USC § 1324b

RELATED REGULATIONS: 28 CFR Parts 0 and 44

GENERAL SUMMARY: As amended in 1986, the Immigration and Nationality Act outlaws certain forms of employment discrimination based on national origin or citizenship status, prohibitions which apply equally to agricultural and non-agricultural employers.

SPECIFIC TERMS AND CONDITIONS

UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES — In general, no one who employs more than 3 employees may discriminate against any individual (other than an undocumented worker) with respect to hiring, firing, job recruitment or job referral, when such discrimination is because of the individual's national origin or the individual's status as (1) a U.S. citizen, or (2) a lawfully admitted permanent resident who applied for U.S. citizenship within 6 months of becoming eligible but has not yet been naturalized and is still within the prescribed 2-year window after application.

EXCEPTION — It is not regarded as unlawful for an employer or other entity to prefer to hire, recruit or refer a U.S. citizen over a non-citizen, if the two individuals are equally qualified.

COMPLAINTS — A person (or the authorized representative of a person) who has been subjected to an apparent act of unfair immigration-related employment discrimination may, within 180 days after the act occurs, file a written charge of violation with the enforcement agency. Within 120 days after receipt of the worker's charge, the agency must undertake an investigation and determine whether or not to file a formal complaint against the respondent. In the event the agency fails to file a complaint with an administrative law judge within 120 days after timely receipt of a worker's charge of unfair immigration-related employment discrimination, the worker has 90 days from the end of the 120-day period to file the complaint with an administrative law judge directly. A finding by an ALJ that the person named in the complaint has, in fact, engaged in an illegal act of employment discrimination will generally result in an order requiring the person to cease the unlawful practice. The order may also compel the respondent to hire or rehire the complainant and any other worker adversely affected by the violation, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for anyone to intimidate, threaten or retaliate against a person because the person has filed a complaint, participated in an investigation, or exercised or attempted to exercise any other right under these provisions.

PREEMPTION OF JURISDICTION — The Immigrant and Employee Rights Section will not accept any complaint regarding an unfair immigration-related employment practice if the same complaint has been filed with the Equal Employment Opportunity Commission under the Civil Rights Act of 1964, unless the charge has been dismissed by the EEOC as outside the scope of that law. Charges filed incorrectly with either agency will be forwarded to the other.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Immigrant and Employee Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530 (202-616-5594; toll-free 800-255-7688). This agency is responsible for investigating charges and prosecuting administrative complaints relating to unfair employment practices under the Immigration and Nationality Act. The agency's Special Counsel for Immigration-Related Unfair Employment Practices and the agency's hearing officers are authorized to examine evidence and subpoena witnesses in connection with the investigation of charges or any related hearing. Employers and other entities found out of compliance with the Act's anti-discrimination provisions are subject to civil money penalties of up to \$2,000 for each individual adversely affected by the first violation, and up to \$5,000 per individual for the second violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

STATE LABOR LAWS (UNLAWFUL SUSPENSION OR DISCHARGE)

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-31 - 378-38

GENERAL SUMMARY: Part III of the employment practice provisions in the state labor laws makes it unlawful, among other prohibited acts, for employers to suspend, discharge or discriminate against an employee solely because the employee has suffered a work-related injury covered by the state workers' compensation law, unless the employee is no longer capable of performing his or her normal job due to the injury and the employer has no other work which the employee is capable of performing. Any worker who is discharged because of work-related injury must be given first preference for re-employment by the employer in any position which the worker is capable of performing and which becomes available after the discharge or until the worker secures new employment.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural employers and workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). An employee aggrieved by alleged unlawful suspension, discharge or discrimination related to a work-related injury may file a written complaint with the nearest district office of the Department. In most cases, the complaint must be filed within 30 days after the alleged incident took place. On notice to the parties and in the event of a formal finding that the allegation is valid, the Department may order reinstatement of the employee with or without back pay, or may order payment of back pay without reinstatement.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

STATE LABOR LAWS (EMPLOYMENT CONTRACTS)

STATUTORY CITATION: Idaho Code § 44-902

GENERAL SUMMARY: Chapter 9 of the state labor laws, which governs employment contracts in Idaho, contains a provision making it unlawful for employers or other parties to impose as a condition for employment any terms controlling where or with whom an employee is to board or reside, specifying a particular establishment at which an employee must purchase goods, or dictating how or where a worker's wages are to be spent. It is similarly illegal for an employer to dismiss a worker for reasons related to where or with whom the worker resides, where the worker purchases goods, or how or where the worker spends his or her wages.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies equally to agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. An employer who violates these worker protections is subject to a fine of up to \$300, imprisonment for up to 90 days, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

● STATE LABOR LAWS (INDIVIDUAL RIGHTS)

STATUTORY CITATION: La. Rev. Stat. §§ 23:961 - 23:968

GENERAL SUMMARY: Chapter 9, Part III of the state labor statutes contains provisions, applicable to all industry sectors, banning interference by employers with certain individual rights of their employees, including the free exercise of political rights, the expression of political opinions, the exercise of consumer choice, and the right to benefit from labor protections.

SPECIFIC TERMS AND CONDITIONS

POLITICAL RIGHTS — No employer who regularly employs 20 or more workers may forbid or prevent any such worker from participating in politics or running for public office, nor may such an employer control or direct the political activities or affiliations of any employee, or coerce or influence the political activities of an employee through threats of discharge or loss of employment.

POLITICAL OPINIONS — It is illegal for any planter, manager, overseer or other employer of laborers, regardless of number, to discharge any such laborer prior to the expiration of the term of service on account of the laborer's political opinions, or to control the vote or restrict the voting rights of a worker by any agreement or contract whatsoever.

PURCHASE OF MERCHANDISE — An employer may not coerce or require any of his or her employees to deal with or purchase any article of food, clothing or merchandise of any kind (other than work uniforms) from any particular person or establishment, or penalize any worker for failing to do so.

EXERCISE OF LABOR PROTECTIONS — All employers in Louisiana are prohibited from discharging or discriminating in any other manner against any employee because the employee has testified in an investigation or proceeding relative to the enforcement of any state labor law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679). This agency may institute civil proceedings in the appropriate district court to enforce its rulings, or seek injunctive relief to restrain and prevent violations of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — With respect to an apparent violation of an employee's political rights, as described above, the worker has a right to private civil action against the employer involved, for recovery of damages and other equitable relief.

Michigan

HUMAN TRAFFICKING NOTIFICATION ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 752.1031 - 752.1040

GENERAL SUMMARY: Michigan's Human Trafficking Notification Act requires posting of certain notices relating to human trafficking, which explicitly includes compelling someone to perform farmwork against his or her will.

SPECIFIC TERMS AND CONDITIONS: The state transportation department is required to post a human trafficking notice conspicuously at each rest stop and welcome facility in Michigan, and each local unit of government that operates such a facility or that provides bus or rail transportation services to the public must also post the notice. The notice must meet prescribed size and readability standards, be of durable construction, and be posted in English, Spanish and any other language determined appropriate by the state enforcement agency. The notice must read as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave, whether the activity is commercial sex, housework, farm work, or any other activity, please contact the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text 233733 to access help and services. The victims of human trafficking are protected under U.S. laws and the laws of this state."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). Copies of the human trafficking poster — in English and Spanish — can be downloaded from the Department's website (http://www.michigan.gov/lara; search for "Trafficking") or sent by mail upon request.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Michigan Department of Transportation, Lansing, Michigan 48909 (517-373-2090). This agency is responsible for posting the human trafficking notice at state rest stops and welcome facilities.

Montana

CONSTITUTION OF THE STATE OF MONTANA (INDIVIDUAL DIGNITY)

STATUTORY CITATION: Mont. Const. Art. II, § 4

GENERAL SUMMARY: The state constitution prohibits public and private discrimination on the basis of race, color, sex, culture, social origin or condition, or political or religious ideas. The constitutional ban on discrimination on these grounds would include discriminatory acts against employees by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to all persons in Montana, regardless of occupational classification or employment status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers who believe they have been discriminated against because of their culture, political ideas, or social origin or condition, may wish to consult with a private attorney or public legal services program about the possibility of legal action under this provision.

Nevada

MISCELLANEOUS EMPLOYMENT LAWS (COMPULSORY TRADE)

STATUTORY CITATION: Nev. Rev. Stat. § 613.140

GENERAL SUMMARY: Chapter 613 of the state statutes regulates employment practices in Nevada, and includes a provision prohibiting compulsory trade arrangements by employers. This provision generally applies equally to all occupations and industries in the state.

SPECIFIC TERMS AND CONDITIONS: Any employer or other person conducting business in Nevada who by coercion, intimidation, threats or undue influence compels or induces his or her employees to trade at any particular store is guilty of a misdemeanor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - This provision is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has suffered damages as a result of an apparent violation of this provision should consult a private attorney or public legal service provider concerning possible civil action against the offending party.

Ohio

MISCELLANEOUS LABOR LAWS (COMPULSORY SALES TO EMPLOYEES)

STATUTORY CITATION: Ohio Rev. Code § 4113.18

GENERAL SUMMARY: No one may compel or attempt to coerce an employee to purchase goods or supplies from a particular person, firm or corporation.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against compulsory sales to employees applies to all employers in all trades and industries in the state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – When a complaint is received by a local prosecuting attorney, an alleged violation of this provision may be prosecuted as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private counsel or a public legal service provider, a worker forced to purchase tools, supplies or other goods in violation of this provision may file suit against the offending party. Such a worker is entitled to recover *double* the amount of the charges made for the merchandise, or *double* the amount paid in excess of its reasonable or current cash market value.

Puerto Rico

● WAGE PAYMENT LAWS (UNLAWFUL WAGE AND HOUSING RESTRICTIONS)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 171 – 179

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, contains prohibitions against employer interference with certain worker rights.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer to directly or indirectly impose any condition on where or how workers may spend their wages, or to dismiss workers for having spent their pay at a certain place, in a certain way, or with a specified person.

Likewise, employers may not compel their employees to reside on the employer's property.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). A worker who is aggrieved by an alleged violation of these provisions may file a complaint with the Department, which is obliged to investigate and attempt to resolve the matter to the worker's satisfaction. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

WAGE PAYMENT LAWS (DISCHARGE WITHOUT GOOD CAUSE)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 185a – 185m

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, contains prohibitions against unjustified dismissal of employees.

SPECIFIC TERMS AND CONDITIONS: In addition to any wages due, an employee who is fired or dismissed from the job without good cause is entitled to receive from the employer (1) an additional 3 months' pay as indemnity, provided the employee has completed the applicable probationary period, and (2) additional compensation equivalent to 2 weeks' pay for each accrued year of service. In no case may the additional compensation exceed 9 months' pay.

Discharge generally may not be deemed for good cause unless it is predicated on (1) a pattern of improper or disorderly conduct by the worker, (2) inefficient, negligent, tardy or poor job performance by the worker, (3) the worker's repeated violation of written work rules, (4) full, temporary or partial closure of the employer's establishment, (5) technological changes or reorganization of the establishment, (6) changes in the product produced, or (7) a general workforce reduction.

It is generally up to the employee to prove that termination was without just cause.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – To recover the indemnity authorized for a worker discharged without good cause, the worker must file suit against the employer involved, using a private attorney or public legal service provider. Civil court action must be instituted no later than one year after the effective date of discharge.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MISCELLANEOUS LABOR LAWS (COMMISSARIES AND CASH ADVANCES)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 144 - 145

GENERAL SUMMARY: Every person, firm or other entity in Puerto Rico employing more than 10 workers is generally prohibited from operating or holding any interest in a business which sells food, clothing, tools or other goods to its employees.

Likewise, an employer may not directly or indirectly make any cash advances to a worker for the purpose of enabling the worker to purchase goods from a particular vendor or commercial establishment dictated by the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural employers and protect agricultural workers to the same extent as their counterparts in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any worker who is compelled by an employer to purchase goods or merchandise from the employer, or from a particular establishment identified by the employer, should report the matter to the Department. For each day on which an employer does business in violation of these provisions, he or she is subject to a fine of from \$50 to \$200, a jail term of between 30 and 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

● WAGE REGULATIONS (COMPULSORY TRADE)

STATUTORY CITATION: Tenn. Code § 50-2-106

GENERAL SUMMARY: Chapter 2, Part 1 of the state labor laws contains a provision prohibiting agricultural and non-agricultural employers from engaging in certain compulsory trade practices.

SPECIFIC TERMS AND CONDITIONS: It is illegal for any employer who owns or controls a store, or the agent of such an employer, to influence or compel his or her workers to purchase goods at the employer's store by withholding wages beyond the usual time of payment. It is also unlawful for an employer to require as a condition of employment, or continued employment, that a worker trade at a store specified by the employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). This agency has authority to investigate worker complaints of forced trade under this provision, and to assist in prosecution of violations, which are treated as Class C misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

WAGE PAYMENT AND COLLECTION LAW (COMPULSORY PURCHASES)

STATUTORY CITATION: W. Va. Code § 21-5-5

GENERAL SUMMARY: Article 5 of the West Virginia labor laws regulates the payment of agricultural and non-agricultural wages in the state, and includes a provision outlawing compulsory purchases as a form of payment.

SPECIFIC TERMS AND CONDITIONS: It is a misdemeanor for an employer to compel an employee to purchase goods or supplies, from any source, in payment of wages. Furthermore, if a worker is coerced into such a purchase at a price higher than the reasonable or current market value, the employer is liable to the employee in an amount equal to double the difference between the price paid and fair value.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - The prohibition against forced trade in lieu of cash wages is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*PRIVATE CIVIL ACTION — Utilizing a private attorney or public legal service provider, a worker who has been victimized by a violation of this provision may recover unpaid wages and the excess cost of the goods involved, if any, by bringing suit against the offending employer. The court is authorized to award the worker reasonable attorney's fees if the worker prevails in any such

U.S.

○ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

STATUTORY CITATION: 29 USC §§ 651 - 678

RELATED REGULATIONS: 29 CFR Part 1928, Subpts. C and D

GENERAL SUMMARY: The Occupational Safety and Health Act generally requires employers to furnish their workers with employment and a workplace free from recognized hazards that cause or could cause death, harm or serious injury. More specifically, employers subject to the Act must comply with detailed safety and health standards adopted by the U.S. Department of Labor which are applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Among other agriculturally related safety and health regulations adopted by the labor department, farm employers who (1) have more than 10 non-family employees, or (2) have operated a temporary labor camp within the preceding 12 months, are required to comply with standards for the safety of employees operating or working around tractors and other farm equipment, briefly summarized here:

ROLL-OVER PROTECTIONS ON TRACTORS — Farm tractors must be properly equipped with structures and devices to protect workers against roll-over hazards. The standards include test procedures and performance requirements for protective frames and enclosures for wheel-type agricultural tractors.

SAFETY MEASURES ON OTHER AGRICULTURAL EQUIPMENT — The regulations prescribe both operating instructions and design specifications to safeguard operators of farm field equipment, stationary farm machinery, and cotton ginning equipment.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect workplaces, investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating safety of tractors and other on-farm agricultural equipment have been approved and are in effect in the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

Alabama

○ GENERAL LABOR LAWS (PROVISION OF SAFE EMPLOYMENT)

STATUTORY CITATION: Ala. Code 1975 § 25-1-1

GENERAL SUMMARY: In general, employers in Alabama are obligated to furnish employment reasonably safe for their employees, provide appropriate safety devices and safeguards, and do everything reasonably necessary to protect the life, health and safety of their employees and others at the workplace who are not trespassers.

PROVISIONS APPLICABLE TO AGRICULTURE: The employer's statutory duty to assure the well-being of the workforce on the job does not apply to agricultural employers or agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Alabama Department of Labor, Montgomery, Alabama 36130. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Alaska

STATE HEALTH, SAFETY AND HOUSING LAWS

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 - 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1010

GENERAL SUMMARY: The state health, safety and housing laws generally require all employers in Alaska to, among other measures, (1) furnish each employee with employment and a place of employment free from recognized hazards that are likely to cause death or serious physical harm to employees, and (2) furnish and use suitable protective equipment, safety devices and safeguards. Among other prescribed protections, an employee who believes that imminent danger exists in the workplace, or that a violation of a safety or health standard exists that threatens harm, may request an inspection by the enforcement agency.

To reduce the incidence of work-related accidents and health hazards in the state, the state labor department is authorized to adopt and enforce specific occupational safety and health standards that prescribe requirements for safe and healthful working conditions in all employment and that are at least as effective as the corresponding federal standards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Alaska's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) but can be enforced against all agricultural establishments.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855). This agency is responsible for receiving reports of job-related injuries, illnesses and death, and for responding to requests from workers or their representatives for workplace inspections when there are reasonable grounds to believe a violation of these provisions has occurred or imminent danger to an employee exists. Agents of the Department may enter and inspect workplaces, question employers and employees, subpoena witnesses and records, and issue citations when violations are found. Failure by an employer to correct a violation may result in a civil money penalty and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-603

GENERAL SUMMARY: Under the Arizona Occupational Safety and Health Act, it is generally every employer's duty to furnish each employee with employment and a place of employment free from recognized hazards that cause or could cause death or serious physical harm to employees, and to comply with specific occupational safety and health standards that are adopted by the administering agency under the Act's rulemaking authority and are applicable to the employer's industry or workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial commission has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Arizona's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251). ADOSH personnel are empowered to inspect places of employment and question employees to determine employer compliance with the Act and regulations adopted under its authority. Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by the agency. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation. Employers cited for violations are subject to administrative fines. Willful or repeated infractions which result in an employee's permanent disability or death can result in additional civil penalties.

Arkansas

○ STATE LABOR LAWS (SAFE PLACE OF EMPLOYMENT)

STATUTORY CITATION: Ark. Code § 11-2-117

GENERAL SUMMARY: Most firms and businesses in Arkansas that employ 5 or more workers are required to furnish safe employment and to do everything reasonably necessary to protect the life, health, safety and welfare of their employees. The law permits the labor department to adopt specific occupational safety rules, imposes employer recordkeeping responsibilities, and prescribes penalties for violations.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions do not apply to any employer engaged exclusively in farming operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – None. According to the Arkansas Department of Labor, the state's authority to enforce these provisions is effectively preempted by the U.S. Occupational Safety and Health Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 3436-3458.1

GENERAL SUMMARY: Under the California Occupational Safety and Health Act, employers in the state must furnish employment and a place of employment which are safe and healthful for their employees, and employers must provide and use appropriate safety devices and observe preventive work practices. Employers and workers are required to comply with all occupational safety and health standards and other regulations authorized by the Act which are applicable to their respective industries and places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. California's agricultural safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Connecticut

O CONNECTICUT OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-367 - 31-385

GENERAL SUMMARY: Connecticut's Occupational Safety and Health Act requires covered employers to furnish their employees with work and a workplace free from recognized hazards that are likely to cause death or serious injury. The state labor commissioner has broad authority to propose and adopt regulations implementing that requirement, and has authority to investigate workplace hazards and related complaints by employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The Connecticut Occupational Safety and Health Act covers state and local governmental agencies only, and thus **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

O GENERAL LABOR LAWS

STATUTORY CITATION: Del. Code Title 19, §§ 101-117

GENERAL SUMMARY: Chapter 1 of Delaware's labor laws grants authority to the state labor department to adopt and enforce rules for the prevention of accidents and employment-related disease in most occupations and at most workplaces, as well as rules for the construction, repair and maintenance of places of employment necessary to render them safe.

PROVISIONS APPLICABLE TO AGRICULTURE: The administrative authority to promulgate occupational safety and health protections does not apply to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Georgia

GENERAL LABOR LAWS (WORKPLACE SAFETY)

STATUTORY CITATION: Ga. Code §§ 34-2-1 - 34-2-14

GENERAL SUMMARY: Chapter 2 of the state labor laws contains a broad requirement that certain employers — generally those with 8 or more employees — furnish employment reasonably safe for their employees, adopt and use methods and processes reasonably adequate to make the job and workplace safe, and do everything reasonably necessary to protect the life, health, safety and welfare of their employees. Covered employers are subject to a fine, imprisonment, or both such penalties for violation of or refusal to comply with these provisions.

PROVISIONS APPLICABLE TO AGRICULTURE: The general obligation to provide safe employment does not apply to agricultural employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Georgia Department of Labor, Atlanta, Georgia 30303.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

• HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-208-1

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law requires employers, with few exceptions, to furnish their employees with a job and workplace that are safe and free from recognized hazards, and employers must utilize such equipment and adopt such practices as are necessary to meet this general requirement. The law also imposes employer recordkeeping duties, spells out the safety-related rights and responsibilities of workers, and gives the enforcement agency broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Hawaii's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

Illinois

OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 219/1 - 219/145

GENERAL SUMMARY: The state Occupational Safety and Health Act formally adopts all of the federal standards established by the U.S. Department of Labor under the federal Occupational Safety and Health Act of 1970, and authorizes the state labor director to promulgate additional standards that promote safety in the workplace. Additionally, the state Act creates a framework for workplace inspections and for receiving, investigating and resolving related complaints lodged by employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The Illinois Occupational Safety and Health Act covers only state, county, municipal, and school district employees, and thus does not apply to privately employed agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Occupational Safety and Health, Illinois Department of Labor, Chicago, Illinois 60601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

■ INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 - 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act imposes on the state's employers the general duty to establish and maintain working conditions that are reasonably safe and healthful for their employees and free from recognized hazards that could cause death or serious physical harm to the workforce. The Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards in Indiana applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state commission has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Indiana's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety). However, except in response to an employee's complaint, the Act prohibits the state enforcement agency from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605). In response to a worker's complaint, IOSHA personnel may enter and inspect a workplace to enforce state occupational safety and health standards. If an inspection reveals a violation of the Act or the associated regulations, the Department may issue a written safety order, describing the infractions involved and setting a deadline for abatement. Failure to respond to a safety order, as well as commitment of the violation itself, is grounds for assessment of a civil money penalty by the Department. A person who knowingly violates the Act is also subject to criminal prosecution. Worker complaints may be filed online, at www.in.gov/dol/2733.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Iowa Code §§ 88.1 – 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.28.1

GENERAL SUMMARY: The state occupational safety and health law imposes a general duty on all lowa employers to furnish their employees with a job and a workplace free from recognized hazards that threaten serious injury or death, and to comply with specific safety and health standards that are adopted by the state labor commissioner under the law's authority and applicable to their respective industries or workplaces.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Iowa's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).* In carrying out its enforcement role under this law, the Division is authorized to enter any workplace in Iowa where employees are engaged, to inspect working conditions and equipment, to subpoena documentary evidence and witnesses, and to hold hearings. When an inspection discloses a violation of any standard promulgated under the authority of the state occupational safety and health statute, the Division may issue a citation, requesting correction of the violation within a specified time span. Failure to respond to a citation may, after opportunity for hearing and appeal, lead to imposition by the Division of a civil fine and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kentucky

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 - 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:600, §§ 1 - 2

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act imposes on most employers in the state the duty to furnish their employees with a job and workplace free from life- and health-threatening hazards, and authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state. Employers and employees are obligated to comply with any such standard applicable to their respective employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Kentucky's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218). In response to a complaint or on its own initiative, representatives of the Division may, without delay and advance notice, enter any place of employment at any reasonable time to inspect working conditions, question the employer and workers, and review records to determine the cause of or prevent the occurrence of any occupational injury or illness. At the same time, any covered employee who believes a violation of a state occupational safety and health standard has occurred, or that imminent danger exists, may request an inspection by giving written notice to the Division. After inspection and confirmation of a violation, the Division may issue a citation or abatement order, enforceable in court. Failure to correct a safety and health hazard carries both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

○ STATE LABOR LAWS (EMPLOYERS' DUTY AS TO SAFETY)

STATUTORY CITATION: La. Rev. Stat. § 23:13

GENERAL SUMMARY: Chapter 1, Part I of the Louisiana labor laws imposes an obligation on most Louisiana employers to furnish employment that is reasonably safe for their employees. Subject employers must provide and use safeguards, and adopt and use methods and processes, reasonably adequate to render the job and workplace safe, considering the normal hazard of such employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The employer's duty to assure safety in the workplace **does not apply** to employment in agricultural field operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804.

Maryland

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 – 5-1103

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act imposes a general duty on virtually every non-federal employer in the state to furnish employees with a safe and healthful job and workplace, free from recognized hazards which could cause death or serious injury to the workers. The Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor commissioner has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Maryland's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and apply to all agricultural employers in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). In enforcing compliance with these provisions, representatives of the Division have authority to enter any place of employment in the state, at reasonable times, to inspect the workplace and associated equipment and materials, and to question the employer and employees. If, upon inspection or investigation, the Division believes an employer has violated the general duty created by the Act, or any standard or regulation adopted under the Act's authority, the Division must promptly issue a citation to the employer, fixing a reasonable time for correction of the violation. Failure to respond in good faith to a citation may lead to a formal order against the employer, enforceable in court. Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division, and violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

→ MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.45101 and 408.45301

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act imposes a duty on employers in the state to furnish their employees with a job and workplace free from recognized hazards that could cause death or serious injury, and to comply with the specific safety and health standards adopted under the Act's rulemaking authority and applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Michigan's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). MIOSHA is responsible for administering and enforcing the provisions of the Act relative to occupational safety. Representatives of the agency may enter any workplace in the state to inspect conditions, equipment and materials, and to question the employer and workers regarding safety issues. In investigating a complaint or suspected violation, MIOSHA may compel testimony by witnesses and the production of evidence. Employers found to have violated the Act or a specific occupational safety rule will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

Minnesota

STATUTORY CITATION: Minn. Stat. §§ 182.65 - 182.676

RELATED REGULATIONS: Minn. Admin. R. 5205.0010

GENERAL SUMMARY: The state Occupational Safety and Health Act, in part, (1) defines the rights and duties of employers, including the responsibility for furnishing their employees with a job and workplace free from hazards that could cause serious injury or death, (2) defines the rights and duties of employees, including the right to refuse in good faith to work under conditions they believe present an imminent danger of serious harm or death, and (3) authorizes the adoption and enforcement of specific occupational safety and health standards. In general, the Act requires every employer with one or more employees to comply with all such standards that are applicable to their workplace or employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Minnesota's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742). Agents of the Department are authorized to inspect any workplace in the state and all structures, equipment and materials on the site, either at the request of a worker or on the agency's own initiative. Within 6 months of an inspection or investigation which reveals evidence of a violation of the Act or the associated standards, the Department may issue a written citation to the employer, describing the infraction and fixing a reasonable time for corrective action. Failure to respond to a citation or a subsequent final order may lead to court action to enforce compliance. The Department may assess civil money penalties for any violation of the Act, and willful or repeated violation is grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

■ NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act requires virtually every employer in the state (1) to maintain a workplace that is free from recognized hazards that could cause death or serious physical harm to employees, (2) to furnish and use safety devices and workplace practices reasonably adequate to keep the place of employment safe, and (3) to take other steps to protect the life, safety and health of employees. The Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration covering roll-over protections on tractors and safety measures on other agricultural equipment (see entry, U.S. — Health & Safety — Workplace Safety). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). Representatives of NVOSHA are authorized to inspect any place of employment, either in response to a worker complaint or on the agency's own initiative, in order to assure compliance with the Act and the standards adopted under its authority. The agency will normally issue a citation to an employer found to have committed a violation, fixing a reasonable time for corrective action. Failure or refusal to respond to a citation or final order for abatement may lead to enforcement action in civil court and assessment of administrative fines.

New Jersey

WORKER HEALTH AND SAFETY ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:6A-1 - 34:6A-24

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

GENERAL SUMMARY: The Worker Health and Safety Act requires most employers in New Jersey to furnish their workers with a reasonably safe and healthful place of employment, and to install, maintain and use such protective devices and safeguards (including appropriate methods of sanitation and hygiene) as are reasonably necessary to protect the workers' life, health and safety. The state labor commissioner is authorized to promulgate specific rules and regulations to implement this policy in all covered workplaces in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker Health and Safety Act does not apply to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

New Mexico

OCCUPATIONAL HEALTH AND SAFETY ACT

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 – 50-9-25 RELATED REGULATIONS: N.M. Code R. § 11.5.4.9(A)

GENERAL SUMMARY: The Occupational Health and Safety Act imposes a duty on most New Mexico employers to furnish their employees with a job and workplace free from recognized hazards likely to cause death or serious physical harm to the workers. To assure safe and healthful working conditions, the Act provides for (1) the adoption and effective enforcement of occupational health and safety regulations, (2) state-administered education and training programs for employers and employees, aimed at preventing occupational injuries and illnesses, and (3) appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. New Mexico's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Authorized representatives of the Department may enter any place of employment in the state at reasonable times, question the employer and workers, and inspect pertinent working conditions and facilities in connection with enforcement of the Occupational Health and Safety Act. Any worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations. If investigation of the complaint discloses an infraction, the Department must promptly notify the employer and set a reasonable time for corrective action. The citation may also propose an administrative penalty, and if the employer fails to respond, the citation and proposed penalty are deemed a final Department order and are not subject to review by any court or agency.

New York

○ GENERAL LABOR LAWS (EMPLOYEE HEALTH AND SAFETY)

STATUTORY CITATION: N.Y. Labor Law § 200

GENERAL SUMMARY: Every place of employment in New York must be so equipped, arranged and operated as to provide reasonable and adequate protection to the life, health and safety of the workers employed there. To effectuate this general policy, the state labor commissioner may establish specific safety and health standards applicable to the various workplaces subject to this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as New York does not have an OSHA-approved job safety and health program in the private sector, effectively preempting the state's compliance authority in that area, the state labor department currently enforces **no standards** applicable to the occupational safety and health of private-sector agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0301 - .0302

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina defines the rights and duties of both employers and employees in reducing the incidence of on-the-job accidents and occupationally related illness. The Act imposes a duty on private employers in the state to furnish a job and workplace free from recognized hazards likely to cause death or serious injury to their workers, and requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. North Carolina's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). Authorized representatives of the Department may enter any establishment or workplace in the state at any reasonable time, to inspect working conditions, equipment and materials relevant to worker safety and health, to privately question the employer and employees, and to conduct other activities in connection with a routine inspection or investigation of a specific complaint. If there are reasonable grounds to believe an employer has not fulfilled any duty prescribed in the state Occupational Safety and Health Act or has violated any provision of the Act, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

○ WORKERS' COMPENSATION LAW (SAFETY REGULATIONS)

STATUTORY CITATION: N.D. Cent. Code §§ 65-03-01 - 65-03-02

GENERAL SUMMARY: Apart from its insurance and benefit provisions, the state workers' compensation law authorizes the administering agency to issue and enforce safety regulations for the prevention of employee injuries at workplaces subject to the law. The state agency may raise by up to 10 percent the workers' compensation insurance premium rating of any employer who fails to comply with a rule or regulation established under this authority.

PROVISIONS APPLICABLE TO AGRICULTURE: North Dakota's workers' compensation law applies only to "hazardous employment," the statutory definition of which explicitly excludes agricultural service. Hence, the law **does not apply** to agricultural employers or workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – North Dakota Workforce Safety and Insurance, Bismarck, North Dakota 58503. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Ohio

GENERAL LABOR LAWS (SAFETY IN THE WORKPLACE)

STATUTORY CITATION: Ohio Rev. Code §§ 4101.11 - 4101.12 and §§ 4101.15 - 4101.16

GENERAL SUMMARY: Employers in Ohio have a general duty to furnish employment and a place of employment which are reasonably safe for their employees, to use safeguards and adopt practices conducive to workplace safety, and to take every other step reasonably necessary to protect the life, health and safety of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The employer's general duty to provide a safe place of employment implicitly applies to all agricultural employers, and protects all farmworkers in Ohio, the same as their counterparts in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). Every day during which an employer fails to observe or comply with these provisions constitutes a separate violation. Violators are subject to a fine of from \$50 to \$1,000 for a first offense, and from \$100 to \$5,000 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

OREGON SAFE EMPLOYMENT ACT

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-0001 - 437-004-9860

GENERAL SUMMARY: The Oregon Safe Employment Act requires all private employers in the state to provide their employees with a job and workplace which are safe and healthful, and to furnish and use whatever safeguards, practices and processes are reasonably necessary to protect the life, safety and health of the workforce. The Act confers broad authority on the state consumer and business services director to set standards to assure every covered employee a safe and healthful place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the consumer and business services director has adopted workplace safety and health standards explicitly applicable to agricultural operations. Key elements of the standards most relevant to on-farm work activities in the field are summarized below.

SAFETY ORIENTATION FOR WORKERS — Before any seasonal farmworkers begin work for the first time, and whenever working conditions or locations change in a way that could affect their safety and health, their employer must provide an orientation meeting with the workers to review (1) on-the-job safety and health rules, (2) procedures workers should follow to contact supervisors or managers in case of accident, illness or other safety or health problems, (3) procedures for treating injured or sick workers and for summoning emergency assistance, and (4) the location of posted safety and health information. The orientation must be provided in a way that the workers can understand, implicitly including the use of languages other than English for workers with language barriers.

AGRICULTURE EQUIPMENT GUARDING — Employers must protect workers from coming into contact with hazards created by moving machinery, by installing and using prescribed guards, shields or other protective devices. At the time of initial assignment and at least once a year thereafter, employers are required to instruct every worker in the safe operation and servicing of any equipment with which the worker will be involved.

ROLL-OVER PROTECTIONS FOR TRACTORS — Agricultural tractors of more than 20 horsepower must be equipped with prescribed structures, as well as seat belts, to protect the driver from injury in the event of roll-over. Workers who operate tractors must be instructed in certain specified safe operating practices at the time they are first assigned tractor-related duties and at least once a year thereafter.

LADDERS — Ladders used in agricultural operations must be in sound condition; ladders with cracked or broken side rails, missing steps, loose hardware or braces, or similar defects may not be used. Portable stepladders must be equipped with a metal spreader or locking device strong enough to hold the ladder open. Orchard ladders longer than 16 feet are prohibited.

MEDICAL SERVICES AND FIRST AID — Every agricultural employer must have minimum prescribed first-aid supplies in proximity to all workers. Where workers handle corrosive chemical substances, or pesticide products labeled "Danger" or "Poison," the employer must provide an emergency eyewash or shower that meets prescribed standards for decontamination. The employer must also develop an emergency medical plan, under which seriously ill or injured workers can get timely medical attention.

SPECIAL NOTES OR ADVISORIES

LIMITATION ON AGRICULTURAL INSPECTIONS — Agricultural employers with 10 or fewer permanent, year-round employees (both full-time and part-time) are subject to scheduled inspections only if (1) a valid complaint of a violation of the Safe Employment Act has been filed against the employer, or (2) there has been a death or serious disabling injury at the employer's agricultural workplace within the preceding 2 years due to a violation of the Act, or (3) the employer and principal supervisors at the workplace have not completed at least 4 hours of documented instruction on agricultural safety and health procedures each year.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Oregon OSHA is responsible for assuring employer compliance with the Act and the regulations, standards and orders issued thereunder. In response to a valid worker complaint, representatives of the agency are authorized to enter and inspect workplaces in the state, and to cite employers found in violation. Non-compliance with an applicable standard or an Oregon OSHA order may result in assessment of a civil money penalty and, for certain serious infractions, criminal prosecution. In addition, the agency may use a red warning notice to prohibit the use of any hazardous machine, device or place of employment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). In exercising its inspection authority under other statutory provisions, the Bureau must report to Oregon OSHA any violation of the occupational safety or health laws encountered at any place of employment, farm labor camp, field or facility inspected by the Bureau. This agency is also responsible for enforcing the anti-retaliation provision noted above (Civil Rights Division, 971-673-0764).

Pennsylvania

O GENERAL SAFETY LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 25-1 - 25-15

GENERAL SUMMARY: With few exceptions, Pennsylvania's general safety law provides that places of employment must be so constructed, equipped, arranged, operated and conducted as to provide reasonable and adequate protection to the life, health and safety of the workforce. The state labor department is given broad authority to adopt rules implementing this general policy and to enforce compliance by the employers to whom they apply.

PROVISIONS APPLICABLE TO AGRICULTURE: The general safety law does not apply to agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Bureau of Occupational and Industrial Safety, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: It is the intent of the Occupational Safety and Health Act to assure, as far as possible, that every worker in Puerto Rico has safe and healthful working conditions and to preserve the Commonwealth's human resources, in large part by (1) imposing on employers a general duty to furnish a job and workplace free from recognized hazards which may cause death or serious physical harm to the workforce, and (2) requiring employers to comply with specific safety and health standards adopted or approved by Puerto Rico's labor secretary which are applicable to their respective places of employment. The scope of the Act encompasses all fields of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Puerto Rico's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and apply only to farm operations that employ 10 or more workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Apart from its rulemaking functions under the Act, the Department is responsible for investigating reported or suspected violations. Representatives of the Department are authorized to enter places of employment, observe working conditions, examine structures and equipment, and question employees, either in connection with any such investigation or as a matter of routine inspection. Discovery of a violation of the Act or the associated standards or regulations may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

OCCUPATIONAL SAFETY DIVISION LAW

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-20-1 - 28-20-34

GENERAL SUMMARY: Chapter 20 of the Rhode Island labor laws creates an occupational safety division in the state labor department, and makes that unit responsible for enforcing all laws, regulations and standards pertaining to the occupational safety and health of employees. Among other provisions, the law imposes on all agricultural and non-agricultural employers in the state the duty to furnish each of their employees a job and workplace which are free from recognized safety and health hazards likely to cause death or serious physical harm, and to comply with the specific safety and health codes promulgated under the law's authority which are applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state labor department has adopted **no** standards explicitly applicable to farmworkers or agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety Unit, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

OCCUPATIONAL HEALTH AND SAFETY LAW

STATUTORY CITATION: S.C. Code §§ 41-15-80 - 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 8

GENERAL SUMMARY: Chapter 15 of the state labor laws regulates occupational health and safety in South Carolina, in part by (1) requiring employers to provide their workers with employment and a place of employment which are free from recognized hazards that could lead to death or serious injury, and (2) empowering the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor director has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. South Carolina's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682). Representatives of South Carolina OSHA may enter any workplace at any reasonable time to inspect working conditions, examine records, question the employer and employees, and take other steps necessary to check and enforce compliance with the occupational health and safety law and the corresponding regulations. If routine inspection or investigation of a specific complaint reveals evidence of a violation, the agency may cite the employer and set a timetable for corrective action. Shortly after issuing a citation, the agency will notify the employer of the administrative penalty to be imposed, if any. Certain serious and willful violations may also be prosecuted as criminal offenses.

Tennessee

STATUTORY CITATION: Tenn. Code §§ 50-3-101 – 50-3-2001 RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-07

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act, in part, makes it the duty of most employers in the state to provide their employees with working conditions and a workplace which are free from potentially life-threatening or other serious hazards, and imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the Act's broad rulemaking authority, the state labor department has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Tennessee's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818). On the agency's own initiative or in response to an employee's complaint or request for inspection, representatives of TOSHA are authorized to enter any premises where workers are employed and inspect all conditions, structures, equipment and materials which have a bearing on worker safety and health. If an inspection or investigation reveals evidence of a violation of the Act or a related standard or regulation, the agency must cite the employer and set a deadline for corrective action. TOSHA has explicit authority to assess monetary penalties for any such violation. Certain serious infractions may also be prosecuted as criminal offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

■ UTAH OCCUPATIONAL SAFETY AND HEALTH ACT

STATUTORY CITATION: Utah Code §§ 34A-6-101 - 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-3

GENERAL SUMMARY: The Utah Occupational Safety and Health Act is intended, in part, to provide for the safety and health of workers and thereby preserve the state's human resources. In furtherance of that policy, the Act requires employers in Utah to furnish their employees with a job and workplace free from recognized hazards that could cause death or serious physical harm, and obligates employers and employees alike to comply with the specific occupational safety and health standards adopted by the state enforcement agency which are applicable to their respective trades and industries.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Utah's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901). Representatives of the Occupational Safety and Health Division (UOSH) are authorized to enter any place of employment in the state, without delay and at reasonable times, for the purpose of inspecting working conditions, investigating health and safety complaints by employees, and carrying out other duties under the Act. If an inspection or investigation reveals evidence of a violation of the Act or the associated regulations, UOSH may issue the employer a citation, describing the infraction and fixing a reasonable time for corrective action; the citation may be followed by assessment of a civil money penalty. Failure to correct a violation may result in a final order for abatement and a penalty against the employer. The Act also prescribes criminal penalties for certain willful and knowing violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ WORKERS' COMPENSATION ACT (PROTECTION OF LIFE, HEALTH, AND SAFETY)

STATUTORY CITATION: Utah Code § 34A-2-301

GENERAL SUMMARY: Apart from its primary purpose of providing economic compensation for workers injured in job-related accidents, the Workers' Compensation Act includes language prohibiting most employers in the state from (1) maintaining any workplace that is not safe, (2) requiring or knowingly permitting an employee to be in a workplace that is not safe, (3) failing to provide and use safety devices and safeguards, (4) failing to adopt and use methods and processes reasonably adequate to render the job and workplace safe, or (5) failing or neglecting to do every other thing reasonably necessary to protect the life, health and safety of their employees.

When a job-related injury is found to have been caused by the employer's willful failure to comply with the Act or its associated regulations, whatever monetary compensation is otherwise payable to the worker will be increased by 15 percent.

With some exceptions, the Act applies to every employer who regularly employs one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: In the agricultural sector, the Workers' Compensation Act — and thus the employer's legal obligation to assure a safe place of employment — applies only to farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

OCCUPATIONAL SAFETY AND HEALTH LAWS

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-039

GENERAL SUMMARY: Chapter 3, Subchapters 4 and 5 of the state labor statutes provide, in part, that (1) insofar as practicable no employee should suffer diminished health, functional capacity or life expectancy as a result of his or her work experience, (2) all employers in Vermont must furnish their employees with a job and workplace which are free from recognized hazards that could cause death or significant physical harm to their workforce, and (3) employers must comply with safety and health standards adopted by the state labor commissioner and applicable to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Vermont's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). Aside from the agency's role in developing rules related to occupational safety, representatives of VOSHA are authorized to enter and inspect any place of employment in the state, either in response to a specific employee complaint or on their own initiative. If inspection or investigation yields evidence of a violation of these provisions, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The statutes also prescribe criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

OCCUPATIONAL SAFETY AND HEALTH LAWS

STATUTORY CITATION: Va. Code §§ 40.1-49.3 - 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-190-1928

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards. Apart from the rulemaking and enforcement provisions is additional legislative language requiring employers (1) to furnish their employees with a job and workplace free from recognized hazards which could cause death or serious physical harm, and (2) to comply with all state occupational safety and health standards applicable to their respective operations.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Virginia's agricultural safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts B, C, D, E, F

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, employers are obligated to furnish their employees a place of employment free from recognized hazards which could cause serious injury or death, and to comply with the specific health and safety rules promulgated under the Act which apply to their respective places of employment. Using the Act's authority to develop and enforce workplace standards to protect the safety and health of the state's workforce, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers, workers and workplaces. Key provisions most relevant to farmworkers in the field are briefly summarized below.

SPECIFIC TERMS AND CONDITIONS

ACCIDENT PREVENTION AND FIRST AID — Agricultural employers are required to develop a written accident prevention program that includes, among other elements, (1) how, when and where to report injuries and illnesses, (2) how to report unsafe conditions and practices, (3) the use and care of personal protective equipment, (4) emergency procedures, and (5) identification of hazardous materials and how to use them safely. Employers must provide their workers with instruction in safe work practices at the beginning of their employment, and at least once a month employers must conduct a walk-around safety inspection of active job sites, materials, equipment, and operating procedures. A representative chosen by the workers must be invited and allowed to accompany the employer on the inspection.

In the absence of a nearby clinic or hospital to treat injured employees, a person must be adequately trained to render first aid. Appropriate first aid supplies must be on hand and easily accessible to all employees, and where there is potential for major exposure of a worker's body or eyes to corrosive materials or toxic chemicals, the employer must provide emergency washing facilities.

HAND TOOLS — The use of hoes with handles less than 4 feet long, or any hand tool used for weeding or thinning crops in a stooped position, is prohibited.

ORCHARD LADDERS — At the beginning of employment, employers who require workers to use ladders for tree maintenance or harvesting must provide workers with training on their proper use, including how to set them up and how to dismount with a full load. Ladders used for orchard harvesting must be checked regularly for defects, must be maintained in good condition at all times, and must be properly stored. Ladders longer than 16 feet are prohibited.

VEHICLES AND FARM FIELD EQUIPMENT — Tractors and other motor vehicles used on farms and adjacent highways must have prescribed lamps, reflectors and safety emblems, and must be equipped with guards and other safety features described in the regulations. Only qualified drivers who have a current motor vehicle operator's license may drive farm vehicles.

ROLLOVER PROTECTIVE STRUCTURES FOR TRACTORS — Agricultural tractors that were manufactured after October 25, 1976, and that are not exempted from this requirement must be equipped with protective structures intended to prevent worker injuries in the event of a rollover. Each such tractor is also required to have a seat belt, and drivers are required to use it. Tractor operators must be trained in proper operating practices at the time of their initial assignment and at least once a year thereafter.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

O EMPLOYEE SAFETY AND WELFARE LAWS (EMPLOYER'S GENERAL DUTY)

STATUTORY CITATION: W. Va. Code § 21-3-1

GENERAL SUMMARY: A provision in Article 3 of the state labor statutes requires employers in West Virginia to (1) furnish employment which is reasonably safe for the workers, and (2) provide and use safety devices, methods and processes reasonably adequate to make the workplace safe and to protect the life, health, safety and welfare of the employees. To effectuate these general mandates, the state labor commissioner is authorized to administratively prescribe reasonable means of protecting the workers in any industry, implicitly including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state labor commissioner has adopted **no** standards explicitly applicable or closely related to farmworkers or agricultural employment.

SPECIAL NOTES OR ADVISORIES

PREEMPTION BY FEDERAL LAW — It is the position of the state labor department that this provision is preempted by the U.S. Occupational Safety and Health Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Wisconsin

O REGULATION OF INDUSTRY GENERAL PROVISIONS

STATUTORY CITATION: Wis. Stat. §§ 101.01 - 101.11

RELATED REGULATIONS: Wis. Admin. Code Chs. SPS 301 - 500

GENERAL SUMMARY: Chapter 101, Subchapter I of the Wisconsin statutes defines the functions of the Department of Safety and Professional Services and contains both general and specific standards relating to the welfare of employees and others who frequent places of employment. The state safety department has explicit authority under these provisions to prescribe and enforce rules regulating workplace safety and health in all industries and occupations in Wisconsin, except where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan.

PROVISIONS APPLICABLE TO AGRICULTURE: Since Wisconsin does not have an OSHA-approved state plan, the state safety department has **no authority** to regulate workplace safety and health in private-sector workplaces, in either the agricultural or non-agricultural sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 – 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Chs. 3 and 4

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state. Employers are generally obligated to comply with all state occupational health and safety standards applicable to their respective workplaces.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state OSHA Commission has adopted workplace safety standards covering roll-over protections on tractors and safety measures on other agricultural equipment. Wyoming's agricultural safety regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Workplace Safety) and may be enforced against any farm operation in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786). Representatives of the Department are authorized to enter and inspect any place in the state where individuals are employed, to investigate working conditions and ascertain compliance with the Occupational Health and Safety Act. When inspection or investigation discloses a violation of the Act or any of the associated administrative standards, the Department will serve notice on the employer and fix a timeframe for corrective action; the Department may also propose a civil money penalty. Certain willful and knowing violations are grounds for criminal prosecution in addition to civil liability.

Arkansas

STATE LABOR LAWS (TOILET ROOMS)

STATUTORY CITATION: Ark. Code § 11-5-112

GENERAL SUMMARY: In every factory, manufacturing establishment, workshop or other place where 6 or more men and women are employed, separate toilets and washrooms for men and women must be provided.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural workplaces.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.* According to the Arkansas Department of Labor, the state's authority to enforce these provisions is effectively preempted by the U.S. Occupational Safety and Health Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

○ STATE LABOR LAWS (WORKPLACE HEALTH AND SANITATION)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 106 and 133

GENERAL SUMMARY: All industrial establishments in Massachusetts must provide fresh and pure drinking water to which their employees have access during working hours. Likewise, suitable, adequate and convenient toilet and washing facilities must be provided in every industrial establishment, with separate facilities for each sex.

PROVISIONS APPLICABLE TO AGRICULTURE: Chapter 149 of the state labor laws, including the sanitation provisions, **does not apply** to persons employed as farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Massachusetts Attorney General, Boston, Massachusetts 02108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Missouri

EMPLOYEE HEALTH AND SAFETY LAWS (PREVENTION OF OCCUPATIONAL DISEASES)

STATUTORY CITATION: Mo. Rev. Stat. §§ 292.300 - 292.440

GENERAL SUMMARY: Every employer of labor in the state whose trade or work exposes one or more workers to illness or disease incident to the job is required to adopt appropriate workplace practices and provide other effective means for preventing such occupational illness and disease.

Under the same statutory provisions, employers who use labor in any activity in which the workers use or come into contact with poisonous chemicals in harmful quantities, or in a harmful way, generally must provide (1) cool, sanitary drinking water and drinking facilities, within reasonable access and without cost to the workers, and (2) adequate and sanitary washing facilities.

PROVISIONS APPLICABLE TO AGRICULTURE: The occupational disease prevention laws implicitly apply to agricultural workplaces, to the extent that the workers employed are exposed to toxic materials such as pesticides.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403). Inspectors from the Department are required to visit as often as possible all places of employment in the state where workers are exposed to harmful substances, and to check compliance with the sanitation equipment requirements applicable to such workplaces. The Department is responsible for prosecuting violations of these provisions. Each infraction carries a possible fine ranging from \$25 to \$250.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

○ STATE LABOR LAWS (SANITATION FACILITIES)

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-401 - 48-404

GENERAL SUMMARY: The state labor laws include workplace health and safety requirements which, among other provisions, impose a duty on employers at every factory, mill, workshop or other building where one or more persons are employed, to provide their employees with toilet facilities on the job, generally in a ratio of one unit for every 20 workers of each sex. Toilet facilities must be properly enclosed, ventilated and maintained by the employer in a clean and sanitary condition.

PROVISIONS APPLICABLE TO AGRICULTURE: The sanitation provisions in the state health and safety regulations do not apply to agricultural workplaces or other places of employment not explicitly mentioned in the statute.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

North Dakota

○ MINIMUM WAGE AND HOUR LAW (ILLEGAL EMPLOYMENT CONDITIONS)

STATUTORY CITATION: N.D. Cent. Code § 34-06-05 RELATED REGULATIONS: N.D. Admin. Code 46-02

GENERAL SUMMARY: Among other offenses defined in the state minimum wage and hour law, it is unlawful for anyone in North Dakota to employ workers (other than commission-paid sales personnel) in unsanitary conditions or in surroundings otherwise detrimental to their health or morals. The state labor commissioner is authorized to prescribe sanitation standards and related regulations in any agricultural or non-agricultural occupation where conditions are found detrimental to the workforce.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite the labor commissioner's statutory authority to adopt health and safety regulations, there are currently **no standards** related to sanitation or other working conditions at agricultural workplaces in North Dakota.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Texas

→ HEALTH AND SAFETY CODE (SANITATION AND HEALTH PROTECTION)

STATUTORY CITATION: Tex. Health & Safety Code §§ 341.001 - 341.092

RELATED REGULATIONS: 25 Tex. Admin. Code §§ 295.161 - 295.169

GENERAL SUMMARY: Chapter 341 of the state health and safety statutes provides that every industrial establishment in Texas must be continually maintained in a sanitary condition, and authorizes the state health commissioner to develop and enforce environmental standards for the health and safety of employees in such establishments.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the statute's broad rulemaking authority, the state health commissioner has adopted sanitation standards for temporary places of employment, including work in any agricultural operation or activity performed in the field or outside a permanent structure or facility. The major regulatory provisions are summarized below. These provisions apply only to smaller agricultural workplaces that are not subject to the field sanitation standards enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation).

DRINKING WATER — Employers of agricultural workers at temporary worksites must provide an adequate, sanitary supply of potable drinking water, either obtained from a state-approved water system or supplied in sealed glass or plastic containers. Portable containers must provide a total capacity of not less than 2 quarts of water for each of the maximum number of workers present at the site each day. Water must be maintained at a temperature no higher than 80 degrees F. Except where water is dispensed from a fountain, disposable single-use cups must be furnished to the workers for drinking purposes; the use of common drinking cups or dippers is prohibited.

TOILET FACILITIES — Employers must provide a minimum of one toilet for every 30 workers (or fraction thereof) of each sex on any given day; where chemical toilets are used, the ratio must rise to at least one toilet for every 20 workers. At any job site with 15 workers or fewer, a single toilet may be provided for both men and women, provided it offers privacy and can be locked from the inside. All toilet enclosures must assure privacy, be maintained in a sanitary condition, and be well ventilated. The employer must furnish an adequate supply of toilet paper in each unit.

HANDWASHING FACILITIES — Employers must provide at least one handwashing facility for every 2 toilets furnished at the job site. Handwashing equipment generally must be supplied with running potable water, a suitable cleansing agent, paper towels, and receptacles for their disposal. The handwashing facilities must be supplied with at least 1/2 gallon of potable water for each of the maximum number of workers present at the site each day.

LUNCH OR REST AREAS — At temporary work locations where workers are permitted or required to eat or take rest breaks, employers must provide or designate suitable areas for that purpose. If sufficient shade is not available, a tarp or similar temporary structure should be provided to provide shade during eating and rest periods. There must also be an adequate number of covered receptacles for disposal of food waste. No food may be stored, prepared or eaten in an area where it may become contaminated or otherwise injurious to health.

DISTANCE LIMITATION — No worker may be required to walk more than 1/4 mile to use any of the sanitary facilities described above, unless the employer provides or has arranged for transportation of workers to alternate toilet and washing facilities requiring no more than 5 minutes' travel time for the workers.

PARTIAL EXEMPTION — On any day in which a farm operator employs no more than 6 workers at a temporary field location, the farmer is not required to provide toilet or handwashing facilities, as long as he or she provides or arranges for transportation of the workers to and from nearby alternative facilities accessible for their use. The grower is still obligated to provide drinking water to the workers at the job site.

SPECIAL NOTES OR ADVISORIES

STATE ENFORCEMENT — It is the position of the Department of State Health Services that it has no authority over agricultural activities taking place on a farm in the state of Texas, and thus does not enforce the sanitation standards for temporary places of employment at on-farm agricultural workplaces.

RESPONSIBILITY OF CREW LEADERS AND FARM LABOR CONTRACTORS — Where workers are performing agricultural field work under a contractual arrangement between a farm operator and a farm labor contractor, the farm operator has primary responsibility and the contractor joint responsibility for compliance with these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Public Health and Sanitation Program, Division for Regulatory Services, Texas Department of State Health Services, Austin, Texas 78714 (512-834-6770).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

○ EMPLOYEE SAFETY AND WELFARE LAWS (WORKPLACE SANITATION)

STATUTORY CITATION: W. Va. Code §§ 21-3-12 - 21-3-13

GENERAL SUMMARY: Every factory, mercantile establishment, mill or workshop in West Virginia must be furnished with toilet facilities, sufficient in number and maintained in a clean and sanitary condition. Separate, plainly marked facilities must be provided for each sex. Where necessary, there must also be adequate washing facilities in all such establishments.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to provide sanitation arrangements does not apply to agricultural workplaces or any other non-fixed or outdoor place of employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

U.S.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (FIELD SANITATION)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1928.110

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has developed and adopted regulations requiring certain agricultural employers to provide field workers with drinking water, toilet facilities and handwashing facilities at the place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Every farm operator or other agricultural establishment that has 11 or more employees on any given day in hand-labor operations in the field must provide the workers with the sanitation facilities described below, without cost to the employees. The employer is required to notify workers of the location of the facilities and afford them reasonable opportunities during the workday to use them.

POTABLE DRINKING WATER — Field workers are entitled to a sufficient amount of suitably cool, readily accessible drinking water which meets applicable state or federal standards for drinking purposes. The water provided must be dispensed in single-use drinking cups or by fountain; the use of common drinking cups or dippers is prohibited. Likewise, vessels used to store and dispense water must be kept covered, refilled daily (or more often, if necessary), and cleaned regularly.

TOILET AND HANDWASHING FACILITIES -

Required Equipment and Exception — Subject employers must provide one toilet and one handwashing facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Toilet and handwashing facilities are not required for employees who perform field work for a period of 3 hours or less during the day (including travel time to and from the field).

Distance Limitation — Sanitation equipment generally must be located within a 1/4-mile walk of each worker's location in the field. However, where the terrain precludes compliance with the distance limitation, the facilities must be placed at the point of closest vehicular access to the field. The toilet and handwashing facilities must be in close proximity to each other.

Design, Maintenance, and Supplies — Toilet facilities must be adequately ventilated and screened, must have self-closing doors, and must be constructed to assure privacy. Employers are required to maintain toilets and handwashing units in clean and sanitary condition, and to equip such facilities with an adequate supply of toilet paper, soap and single-use towels.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits the enforcement agency from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. The enforcement agency is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). On any farm or at any establishment subject to the field sanitation standards, this agency has authority to investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the U.S. Occupational Safety and Health Administration a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating field sanitation have been approved and are in effect in the following states: Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington.

Arizona

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (FIELD SANITATION)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 – 23-433
RELATED REGULATIONS: Ariz. Admin. Code § 20-5-670

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Every agricultural establishment where a crew of 5 or more workers is performing hand-labor operations in one location on any given day must provide sanitation facilities to the workers, as described in brief below.

DRINKING WATER — For every worker at the job site, covered employers are required to provide no less than 2 gallons of potable drinking water, at a temperature of no more than 80 degrees F. and at a readily accessible location. The water must meet prescribed standards of purity and must be dispensed in single-use drinking cups or by fountains.

TOILET AND HANDWASHING FACILITIES — For workers who perform field work for a period of more than 3 hours during the day (including transportation time to and from the field), there must be at least one toilet and one handwashing facility for every 40 such workers or fraction thereof. Toilet and washing equipment must be located in close proximity to each other, and within 1/4 mile of each employee's place of work in the field. If the terrain prevents the employer from complying with the 1/4-mile distance limit, facilities must be located at the point nearest the workers where entry by vehicle is possible. Sanitary facilities must be kept clean and fully operational, and workers must be allowed reasonable opportunities during the workday to use them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251). Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by ADOSH. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

→ FOOD CROP SANITATION LAW

STATUTORY CITATION: Cal. Health & Safety Code §§ 113310-113360

RELATED REGULATIONS: Cal. Code Regs. Title 17, §§ 8000-8013

GENERAL SUMMARY: To maintain the sanitary conditions under which California's food crops are grown and harvested, and to protect the health and dignity of the workers employed in the growing and harvesting of such crops, agricultural employers are required to provide toilet and handwashing facilities in any field activity which involves a food crop and where 5 or more employees are working as a crew, unit or group for a period of 2 or more hours.

SPECIFIC TERMS AND CONDITIONS

TOILET FACILITIES — Each toilet unit (1) must provide at least 8 square feet, with a minimum width of 2 ½ feet for each seat, and (2) must be ventilated and provided with self-closing doors lockable from the inside. Units housing toilet and handwashing facilities must be rigidly constructed, with inside surfaces made of non-absorbent, readily cleanable material. Toilet paper must be furnished at all such facilities.

HANDWASHING FACILITIES — Handwashing facilities must enable workers to wash their hands in clean water, using soap or other suitable cleansing agent, with a sign posted indicating that the water is for handwashing only. The water tank must have a minimum capacity of 15 gallons.

LOCATION OF FACILITIES — In general, toilet and handwashing equipment must be stationed within a 5-minute walk of the workplace. Whenever roads, terrain or other physical conditions prevent compliance with this distance limitation, such facilities should be located at the point of vehicular access closest to the workers.

SPECIAL NOTES OR ADVISORIES

SUSPENSION OF EMPLOYMENT SERVICES — Each agency enforcing the food crop sanitation law must report any violation of which it has knowledge to all offices of the Employment Development Department in the county where the violation occurs. The Employment Development Department is prohibited from referring workers to any employer or food crop operation identified in such a report until the agency reporting the violation certifies that the violation has been corrected.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced primarily by local health officers, who may be assisted by county agricultural commissioners. Violation of the food crop sanitation law is a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – California Department of Industrial Relations, Oakland, California 94612 (510-286-7000); California Department of Public Health, Sacramento, California 95814 (916-558-1784); California Department of Food and Agriculture, Sacramento, California 95814 (916-900-5030).

◎ CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (FIELD SANITATION)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, § 3457

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the administering agency has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. California's field sanitation standards are similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but are substantially more detailed and may be applied to any hand-labor agricultural operation in the state, without respect to the number of workers employed.

POTABLE DRINKING WATER — Farm employers must provide a sufficient supply of fresh, cool, potable drinking water to their employees performing hand-labor operations in the field. The water must be readily accessible, and workers must be allowed access to the water at all times. Water must be dispensed in single-use drinking cups or from fountains.

TOILET FACILITIES — At locations where there are 5 or more workers, employers must provide separate toilet facilities for each sex, at a ratio of one toilet for every 20 workers or fraction thereof; where there are fewer than 5 workers, separate toilets for each sex are not required. All toilet units must be ventilated, have self-closing doors that can be locked from the inside, be screened to prevent entry of flies, be constructed to ensure privacy, and meet related sanitation requirements. Toilet paper must be provided in a suitable holder in each toilet unit.

HANDWASHING FACILITIES — For every 20 workers or fraction thereof, employers must provide one handwashing facility, equipped with an adequate supply of potable water, soap or other suitable cleansing agent, and single-use towels. A sign must be posted to indicate that the water is for handwashing only.

LOCATION OF FACILITIES — In general, toilet and handwashing equipment must be stationed within a 5-minute or 1/4-mile walk of the workplace, whichever is shorter. Whenever roads, terrain or other physical conditions prevent compliance with this distance limitation, such facilities should be located at the point of vehicular access closest to the workers. Toilet and handwashing facilities must be in close proximity to each other.

EXCEPTION TO LOCATION REQUIREMENT — Instead of providing the facilities on site, an employer may provide transportation to toilet and handwashing facilities if (1) the workers perform field work for a period of less than 2 hours, including time to and from work, and (2) there are fewer than 5 workers engaged in hand-labor operations at the site on that day.

RESPONSIBILITY FOR MAINTENANCE — The employer is responsible for servicing and maintaining these facilities. This responsibility includes, among others, (1) cleaning and refilling the drinking water containers, (2) keeping the toilet facilities clean, sanitary and operational, (3) providing toilet paper, and (4) properly disposing of the contents of any chemical toilets used.

REASONABLE USE — The employer must notify each worker of the location of the sanitation and water facilities, and must allow each worker reasonable opportunities during the workday to use them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Colorado

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

STATUTORY CITATION: Colo. Rev. Stat. § 25-1.5-101

RELATED REGULATIONS: 6 Code Colo. Regs. § 1010-11-4.5 and § 1010-11-5.3

GENERAL SUMMARY: Using rulemaking authority under Article 1.5, Part 1 of the state health statutes, the state board of health has established regulations governing the operation of labor camps. Provisions in those regulations require employers of agricultural field and packing shed workers who live in labor camps to provide those workers with certain sanitary facilities on the job.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Potable drinking water must be readily available to both field and shed workers. The water must be clean and sanitary, and the use of common drinking cups is prohibited.

TOILET AND HANDWASHING FACILITIES — Toilets and handwashing equipment, for use by field and shed workers, must be provided within 1/4 mile from the farthest point of the worksite. There must be at least one toilet and one washing unit for every 25 workers of each sex; if fewer than 10 workers are employed at the site, one toilet and one washing facility may be shared by both sexes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

PUBLIC HEALTH CODE (SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS)

STATUTORY CITATION: Conn. Gen. Stat. § 19a-36

RELATED REGULATIONS: Conn. Agencies Regs. §§ 19-13-B53 and 19-13-B54

GENERAL SUMMARY: The state public health laws authorize the Commissioner of Public Health to establish a public health code, to include, among other provisions, field sanitation and safety protections for agricultural workers and migratory farm laborers.

SPECIFIC TERMS AND CONDITIONS: The following standards apply to all agricultural workplaces in the state of Connecticut.

DRINKING WATER — Employers are required to make drinking water readily available to agricultural field and shed workers, in covered containers with sanitary drinking fountains or with individual paper cups. Drinking water must be obtained from a public water supply or from an approved source of ground water. No common drinking cups are allowed.

HANDWASHING FACILITIES — Potable water for handwashing must be available to all field and shed workers.

TOILET FACILITIES — Portable toilets or permanent privies, readily accessible and in adequate numbers, must be provided for the use of agricultural workers. There must be separate, clearly marked facilities for men and women. Each unit must be equipped with an inside-latching door and must be well lighted, ventilated and maintained. Toilet paper must be supplied by the employer.

FIRST AID — Standard first-aid kits must be kept in every shed where work is in progress and must be readily available to shed workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293). In response to a complaint or on its own initiative, representatives of the Department are authorized to inspect worksites to determine if sanitation facilities are being provided as required.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

→ STATE HEALTH AND SAFETY LAWS (FIELD SANITATION)

STATUTORY CITATION: Del. Code Title 16, §122

RELATED REGULATIONS: 16-4447 Del. Admin. Code §§ 1.0-7.5.2

GENERAL SUMMARY: The state Department of Health and Social Services has statutory authority to promulgate regulations for the protection and promotion of public health. Under that authority, the Department has adopted rules requiring certain agricultural employers to provide sanitation facilities to their employees who are engaged in hand-labor operations in the field.

SPECIFIC TERMS AND CONDITIONS: In addition to obtaining a permit from the state authorizing a field sanitation/hand labor operation, agricultural establishments where 11 or more workers on any given day are performing hand-labor operations in the field for more than 3 consecutive hours must provide the workers with drinking water, toilets, and handwashing facilities, as outlined below. Workers must be allowed reasonable opportunities during the workday to use the facilities.

DRINKING WATER — At locations readily accessible to the workers, there must be a supply of suitably cool, sanitary drinking water, dispensed in single-use drinking cups or from fountains. The employer must furnish no less than 6 quarts of water per worker per day.

TOILET AND HANDWASHING FACILITIES — Except when the day's work period is 3 hours or less (including transportation time to and from the field), one toilet and one handwashing facility (including soap and single-use towels) must be provided for every 20 workers or fraction thereof. Sanitation equipment must be within 1/4 mile of each worker's place of work in the field, but if the terrain prevents compliance with the 1/4-mile distance limit, facilities must be placed at the point nearest the workers where entry by vehicle is possible. Toilets and washing equipment must be kept clean and sanitary.

PRIMARY ENFORCEMENT AGENCY – Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220). This agency is responsible for inspecting workplace sanitation facilities, issuing the required permits, and for taking action to enforce compliance with the requirements outlined above. The agency may revoke or refuse to issue a permit if the field sanitation facility is found in violation of the applicable requirements, and employers with serious or repeat violations are subject to fines ranging from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

→ PUBLIC HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Fla. Stat. § 381.0086(1)

RELATED REGULATIONS: Fla. Admin. Code R. 64E-14.016

GENERAL SUMMARY: Using rulemaking authority under the state public health laws, the state health department has established regulations requiring agricultural employers to provide their workers with sanitation facilities in the field under certain circumstances.

SPECIFIC TERMS AND CONDITIONS

TOILET AND HANDWASHING FACILITIES — Where 5 to 10 farmworkers are performing hand-labor operations in one location at one time, a field sanitation facility consisting of one toilet and one handwashing unit must be provided for their use. The toilet unit and the handwashing unit must be adjacent to one another and located within a 1/4-mile walk from any worker's place of work in the field. Where the terrain makes it impractical to place the sanitation facilities within that distance limit, they must be located at the point of closest vehicular access.

The toilet unit must have screened ventilation openings and self-closing doors that can be locked from the inside. The handwashing unit must be supplied with potable water, along with soap or other cleanser and single-use hand-drying towels. There must also be a waste container nearby for the used towels.

DRINKING WATER — Potable drinking water must be readily available to the workers. The water must be clean, sanitary, suitably cool and in sufficient amounts, taking into account the air temperature, humidity and the nature of the work performed. Unless bottled water is provided or water is dispensed by means of a fountain, the containers must meet prescribed standards of construction and be supplied with single-use cups; the use of common drinking cups is prohibited.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250). Representatives of this agency, as well as county health department staff, may conduct inspections of field sanitation facilities at random.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (FIELD SANITATION)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 – 396-20
RELATED REGULATIONS: Hawaii Admin. Rules, § 12-208-1

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state agency has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Hawaii's field sanitation standards are comparable to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to provide required sanitation facilities to field workers. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Idaho

← FARM WORKER SANITATION FACILITIES LAW

STATUTORY CITATION: Idaho Code §§ 44-1901 – 44-1905

GENERAL SUMMARY: To preserve sanitation and health, and in the interest of the privacy and dignity of the agricultural labor force, Chapter 19 of the state labor laws requires the provision of toilet facilities in the fields in certain Idaho farming operations.

SPECIFIC TERMS AND CONDITIONS: In any agricultural crop activity in which 8 or more workers are working as a crew, unit or group for a period of 4 or more hours, the farm operator (or, where workers are furnished by a farm labor contractor, the labor contractor) must provide and maintain at least one toilet facility in a clean and sanitary condition for every 40 workers or fraction thereof.

Toilet facilities, which may include portable units, must be of such design as to provide privacy and prevent contamination of crops and nearby water supplies. Toilets must be placed within 1/4 mile of where the workers are working, but where ground terrain or other physical conditions prevent compliance with the 1/4-mile distance limitation, toilet facilities must be located at the point of vehicular access closest to the workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. A farm operator or farm labor contractor who willfully or negligently violates the sanitation requirement is subject to a fine of not more than \$300 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

→ FIELD SANITATION ACT

STATUTORY CITATION: 210 Ill. Comp. Stat. §§ 105/1 - 105/13

RELATED REGULATIONS: Ill. Admin. Code Title 77, Part 910

GENERAL SUMMARY: The Field Sanitation Act requires farm operators to provide toilets, handwashing facilities and drinking water for workers employed in certain food crop growing or harvesting operations.

SPECIFIC TERMS AND CONDITIONS: Every farming operation in which 10 or more workers are employed in planting, cultivating or harvesting food or nursery products, is required to provide toilets, handwashing facilities and drinking water at each such job site. All such facilities must be readily accessible to the workers, in no case farther than 1/4 mile from any worker. It is illegal for anyone to deny workers the use of the required toilet, handwashing and drinking facilities.

TOILET FACILITIES — There must be at least one toilet for every 35 workers or fraction thereof. Each facility must be designed to provide privacy and allow proper ventilation, and must be maintained in clean and sanitary condition. Each unit must be supplied with toilet paper.

HANDWASHING FACILITIES — Handwashing facilities, in a ratio of at least one unit for every 35 workers, must include an adequate supply of potable water, soap, and disposable towels or equivalent means of drying.

DRINKING WATER — Potable drinking water, in sufficient quantities for all workers throughout the workday, must be provided in covered containers equipped with drinking-fountain attachments or stocked with individual sanitary drinking cups.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830). Upon receipt of a complaint or reported violation of the Act or the associated regulations, the Department is obligated to inspect the farm operation involved; the Act further requires the Department to conduct random inspections. In both cases, the agency has explicit authority to enter private and public property to enforce the field sanitation provisions. A written notice of any violation will be provided to the farm operator after inspection. A violation is punishable as a petty offense, carrying a minimum fine of \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of these provisions is entitled to take direct civil action against the employer, by filing suit in state circuit court for injunctive relief.

Maine

■ FARM WORKER OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 580 - 581

RELATED REGULATIONS: 01 001 Me. Code R. Ch. 365

GENERAL SUMMARY: Chapter 6, Subchapter 2 of the state labor laws authorizes the state agriculture commissioner to adopt and enforce occupational safety and health standards that will (1) protect workers employed in agricultural labor from hazards to their safety and health, and (2) maintain working conditions reasonably free from such safety and health hazards.

SPECIFIC TERMS AND CONDITIONS

Using the statutory authority referred to above, the agriculture commissioner has adopted field sanitation standards, summarized below, which are applicable only to agricultural establishments where more than 10 workers are employed on any given day in hand-labor operations in blueberry fields.

DRINKING WATER — Employers subject to the field sanitation regulations must provide suitably cool, sanitary drinking water to their workers in the field, at locations reasonably accessible to all the workers. There must be no less than one gallon of water for every worker on the job each day. Water must be dispensed from a fountain or in single-use disposable cups.

TOILET AND HANDWASHING FACILITIES — Employers must provide at least one toilet and one handwashing facility for every 30 workers, or fraction thereof. These facilities, or transportation to such facilities, must be located within 1/4 mile of each worker's place of work in the field. Employers are required to inform the workers regarding the location of the facilities, as well as the availability of any transportation to and from that location. It is the employer's responsibility to furnish toilet paper, soap and single-use towels (or allowable equivalent supplies).

Workers must be permitted reasonable opportunities during the workday to use the sanitation facilities described above. It is illegal for an employer to charge a worker any fee for the water, equipment or transportation required under these regulations, or to deduct any amount from a worker's wages or hours in connection with the use of required sanitation facilities.

The toilet and handwashing facility requirements **do not apply** to workers engaged in hand-labor operations for 3 hours or less on any given day.

SPECIAL NOTES OR ADVISORIES

FLEXIBILITY OF RULES — Agency rules permit employers to provide potable water, toilets, or handwashing facilities in lesser quantities or in differing locations, provided that comparable protection is achieved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Quality Assurance and Regulations, Bureau of Agriculture, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-3841).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

■ MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 - 5-1103

RELATED REGULATIONS: Md. Code Regs. 09.12.36

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor commissioner has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Maryland's field sanitation standards are very similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation), but, among other differences, the Maryland regulations permit the normal ratio of one toilet facility for every 20 workers to be reduced to one for every 30 when toilets are serviced frequently.

Also, while federal standards do not require employers to provide drinking water, toilets or handwashing facilities where fewer than 11 workers are employed on any given day, all farm employers in Maryland must furnish drinking water to their workers, regardless of the number of employees; the toilet and handwashing requirements, however, apply only to operations with 11 or more workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

PUBLIC HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, § 127A RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: Chapter 111 of the state statutes includes a provision authorizing the adoption of regulations governing the health and sanitation of farm labor camps, defined in short as any building, vehicle or other structure which contains sleeping facilities provided in connection with farm employment, and which is occupied or intended for occupancy by 2 or more farmworkers or members of their families.

Among other rules incorporated into the state sanitary code by the health department to protect farmworkers living in employer-provided housing, the farm labor camp standards require camp operators to provide drinking water and toilet facilities to camp occupants while they are on the job.

SPECIFIC TERMS AND CONDITIONS

WATER FOR SHED AND FIELD WORKERS — Where running water from an approved source is not available, operators of farm labor camps (as defined above) are required to make drinking water readily available to both shed and field workers. Water must be kept in covered containers which have been disinfected and maintained in clean and sanitary condition.

TOILET FACILITIES — When farm activities require workers to be more than 750 feet from the main toilet facilities at the camp and transportation to the camp is not immediately available, the camp operator must provide toilets within 750 feet of the work area. There must be at least one such unit for every 100 workers, with separate facilities for each sex. The camp operator is responsible for maintaining a sufficient supply of toilet paper, and for keeping the facilities clean, sanitary and in good repair.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757). The Department may respond to any complaint regarding violations of the state sanitary code, including the field sanitation provisions in the farm labor camp rules. The agency may petition the superior court to restrain and enjoin continued non-compliance. Violators are subject to a criminal fine of up to \$500 per day.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state sanitation code, including the field sanitation provisions, may be enforced by local boards of health.

Michigan

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: Mich. Comp. Laws § 408.1014n

RELATED REGULATIONS: Mich. Admin. Code R. 408.45501 - 408.45502

GENERAL SUMMARY: In addition to authorizing the state administering agency to adopt safety and health standards with respect to any industry or occupation in the state, the Michigan Occupational Safety and Health Act contains explicit language affirming the right of farmworkers to potable water and to toilet and handwashing facilities in the field.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Agricultural employers must provide potable water to their employees in the field, at no cost to the workers. The standards for the provision of drinking water are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but apply to all agricultural employers in Michigan.

TOILET AND HANDWASHING FACILITIES — The Act requires agricultural employers with 11 or more workers on a given day to provide toilets and handwashing facilities to the workers in accordance with the federal OSHA field sanitation standard (U.S. — Health & Safety — Agricultural Field Sanitation). Employers with fewer than 11 workers must either provide their field workers with comparable facilities themselves, or make such facilities available to them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). Representatives of MIOSHA may enter any workplace in the state to inspect conditions, equipment and materials, and to question the employer and workers regarding occupational health issues, including field sanitation. In investigating a complaint or suspected violation, the agency may compel testimony by witnesses and the production of evidence. Employers found to have violated the Act or a specific occupational safety rule will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

→ NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment (see entry, U.S. — Health & Safety — Agricultural Field Sanitation). Nevada enforces these standards only on farm operations that employ more than 10 workers on any given day in hand-labor operations in the field, or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). Any worker or worker representative who believes a violation of the field sanitation provisions has occurred may request an investigation by notifying NVOSHA. If an inspection confirms failure to provide required sanitation facilities, the agency may issue a citation or notice to the employer involved. A final order for compliance is enforceable in civil court. Violators of the Act are subject to administrative fines

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

→ DRINKING WATER AND TOILET FACILITIES ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:9A-37 – 34:9A-41

RELATED REGULATIONS: N.J. Admin. Code 12:102

GENERAL SUMMARY: On certain farms where seasonal farmworkers labor in a field that is unreasonably distant from alternative facilities, the farm operator must provide drinking water, toilets and handwashing facilities for the workers. The state labor commissioner is authorized to prescribe specific standards necessary to effectuate the statutory provisions.

SPECIFIC TERMS AND CONDITIONS: The sanitation requirements summarized below, which reflect policy guidelines adopted by the state labor commissioner under the law's rulemaking authority, apply only to agricultural establishments with 10 or fewer field workers.

DRINKING WATER — Except when cool potable water facilities are otherwise available to the workers within 500 feet travel distance of the working area, the farm operator must furnish the workers with an adequate supply of fresh, cool, potable water in the working area. Water must be provided in portable containers capable of being tightly closed and equipped with a tap. Water must be dispensed in single-use drinking cups or by fountains; common drinking cups or dippers are not permitted.

TOILET FACILITIES — Except when toilet facilities are otherwise available within 500 feet travel distance or a 5-minute walk from the working area, the farm operator must provide clean, adequate toilet facilities in the working area. There must be separate accommodations for male and female employees, in a ratio of one toilet for every 20 workers (or fraction thereof) of each sex. The facilities must be equipped with an adequate supply of toilet paper, and must be maintained in clean, sanitary condition and in good working order. Doors must be lockable from the inside.

HANDWASHING FACILITIES — Except when handwashing facilities are otherwise available to the workers within 500 feet travel distance of the working area and in the vicinity of toilet facilities, there must be adequate handwashing facilities provided for the workers in the working area, in the vicinity of the required toilet facilities. The washing facilities must provide potable water, soap or some other cleansing agent, and individual towels.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). Field personnel from this agency may make site inspections, either in response to a worker's complaint or on the agency's own initiative. Whenever a violation is found, the Department may issue a citation against the employer involved and may require corrective action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Apart from the administrative enforcement process outlined above, any seasonal farmworker aggrieved by a violation of the drinking water and toilet facilities provisions is entitled to relief in civil court, using private legal counsel or a public legal service provider.

New Mexico

OCCUPATIONAL HEALTH AND SAFETY ACT (FIELD SANITATION)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.11

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state Environmental Improvement Board has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. New Mexico's field sanitation standards are essentially the same as those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but apply to any agricultural establishment where employees are engaged on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

GENERAL LABOR LAWS (DRINKING WATER FOR FARM LABORERS)

STATUTORY CITATION: N.Y. Labor Law § 212

GENERAL SUMMARY: Article 7 of the state labor laws contains a provision requiring drinking water for farm laborers in the field.

SPECIFIC TERMS AND CONDITIONS: Every farm operator or food processor who employs or uses paid farmworkers or food processing workers must provide the workers with safe drinking water at the employer's expense. Water may be furnished in a portable container, but must be accessible to each site where such workers are on the job. The obligation to provide drinking water rests with the grower or processor, regardless of whether or not the workers are supplied or supervised by a farm labor contractor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

GENERAL LABOR LAWS (FIELD SANITATION FOR FARM LABORERS)

STATUTORY CITATION: N.Y. Labor Law § 212-D

GENERAL SUMMARY: Article 7 of the state labor laws contains a provision requiring field sanitation facilities for farm hand workers, farm field workers, and farm food processing workers.

SPECIFIC TERMS AND CONDITIONS: Every grower or processor who employs or uses paid farm hand workers, farm field workers or farm food processors must provide or make available to such workers toilet and handwashing facilities, including transportation to such facilities. The toilet and handwashing facilities must be located together, within a 1/4-mile walk of most of the workers (or at the closest point accessible by motor vehicle, if the terrain makes compliance with the 1/4-mile requirement impracticable).

Where 5 or more workers are employed in one location at the same time, at least one toilet and handwashing unit must be provided at the location for every 20 workers or fraction thereof. If there are more than 20 workers in one location at the same time and at least half the workers are women, the toilets must be separated by sex and designated as such with appropriate signs.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Since a violation of these requirements is defined in the statute as a misdemeanor, they may also be enforced in criminal court by local prosecuting attorneys. A first offense is punishable by a fine of from \$500 to \$1,000, up to 30 days' imprisonment, or both.

North Carolina

OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (FIELD SANITATION)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0301 - .0302

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. North Carolina's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) but are applicable to all agricultural establishments without regard to any specific number of employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). If there are reasonable grounds to believe an employer has not complied with the field sanitation standards, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

OREGON SAFE EMPLOYMENT ACT (FIELD SANITATION)

STATUTORY CITATION: Or. Rev. Stat. § 654.174

RELATED REGULATIONS: Or. Admin. R. 437-004-1110

GENERAL SUMMARY: The Oregon Safe Employment Act contains explicit provisions requiring employers of workers engaged in growing and harvesting food crops to furnish them with drinking water and sanitation facilities in the field, in accordance with administrative regulations adopted by the state consumer and business services director under the law's rulemaking authority.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — A supply of potable water that meets state quality standards must be immediately available to all workers. The water must be suitably cool and dispensed in single-use cups or angle jet fountains. Common-use drinking cups or dippers are not allowed.

TOILET AND HANDWASHING FACILITIES — Employers are required to provide at least one toilet and one handwashing facility for every 20 workers or fraction thereof. The toilet and handwashing facilities must be adjacent to each other, and generally no more than a 5-minute or 1/4-mile unobstructed walk from each worker's place of work.

Toilet units must have adequate ventilation, screens and self-closing doors lockable from the inside. There should be separate facilities for each sex, distinctly marked or labeled as such. A supply of toilet paper, soap and single-use towels sufficient to meet the workers' needs during each shift must be provided by the employer.

All such facilities must be kept in clean and sanitary condition, and must be designed and constructed so as to prevent crop contamination.

POSTING — Every employer who uses field workers in the production of food crops must post a conspicuous notice, in English and any other language spoken by a majority of the workers, summarizing the field sanitation provisions and advising where workers may file sanitation-related complaints.

REASONABLE USE — Employers must notify their field workers of the location of the facilities and allow each worker reasonable opportunities during the workday to use them. Workers must be advised of the importance of re-hydrating, urinating as frequently as necessary, and washing hands after using the toilet and before eating or smoking.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Either in response to a worker complaint or on the agency's own initiative, agents of Oregon OSHA may enter and inspect any place of employment in the state at which compliance with the Safe Employment Act, including the field sanitation standards, is required. An employer who fails to provide the required facilities may be cited and assessed a civil money penalty of up to \$7,000 for each violation, and up to \$70,000 for willful or repeated violations. A minimum mandatory penalty of \$250 is assessed if there is substantial non-compliance with the

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). If, in the course of its normal workplace inspections and investigations, the Bureau becomes aware of a violation of the field sanitation requirements, it must report the matter to Oregon OSHA for enforcement action. This agency is also responsible for enforcing the anti-retaliation provision noted above (Civil Rights Division, 971-673-0764).

Pennsylvania

SEASONAL FARM LABOR ACT (DRINKING WATER AND TOILETS IN THE FIELD)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.301 - 1301.308

RELATED REGULATIONS: 7 Pa. Code Ch. 82

GENERAL SUMMARY: Among other requirements, the Seasonal Farm Labor Act directs each employer of seasonal farm labor in Pennsylvania to provide a sufficient supply of cool, potable drinking water in the working area, and sufficient, suitable and separate toilet facilities for men and women within a reasonable distance of the working area. The state agriculture department is authorized to adopt rules, consistent with statutory language, detailing sanitation requirements at agricultural worksites.

The term "seasonal farm labor" in this context generally means any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — On all premises where seasonal farmworkers are employed, the employer must provide a sufficient supply of cool, potable drinking water at a reasonable distance from the working area. The regulations require at least one drinking fountain, plus 10 gallons of potable water, for each 100 workers or each crew. Containers used to supply water must meet prescribed sanitation standards. The use of common drinking vessels is prohibited.

TOILET FACILITIES — In general, on all premises where seasonal farmworkers are employed, the employer must provide (1) at least one toilet within 1,000 feet of any work area where up to 10 such workers are employed, (2) one toilet within 500 feet of any work area where 11 to 15 workers are employed, or (3) one toilet for every 15 males or fraction thereof, plus one toilet for every 15 females or fraction thereof, within 500 feet of any work area where 16 or more workers are employed. As an alternative in any such case, the employer may offer a written agreement, in the workers' native language, to provide the workers with transportation to a toilet facility at least once during every 4 hours of work time.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315). Any seasonal farmworker or representative of seasonal workers who has knowledge of a violation of the sanitation provisions of the Act may request an inspection by the Department, which is obligated to honor the request if there are reasonable grounds to believe a violation exists. A copy of the complaint will be furnished to the employer no later than the time of inspection, but the name of the complainant may be withheld at the complainant's request, at least until such time as the Department institutes enforcement proceedings. A person who fails to comply with the Act, or an enforcement order issued by the Department, is subject to civil money penalties, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

○ OCCUPATIONAL SAFETY AND HEALTH ACT (FIELD SANITATION)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the labor secretary has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Puerto Rico's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and apply only to those farm establishments that employ 10 or more employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Discovery of a violation of the field sanitation standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (FIELD SANITATION)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 - 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-07

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the Act's rulemaking authority, the state labor department has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Tennessee's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and likewise apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

PRIMARY ENFORCEMENT AGENCY – Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

OCCUPATIONAL SAFETY AND HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 - 232

RELATED REGULATIONS: Vt. Code R. 24-050-039

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the labor commissioner has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Vermont's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and likewise apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).* If inspection or investigation yields evidence of a violation of the field sanitation standards, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The law also prescribes criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

OCCUPATIONAL SAFETY AND HEALTH LAWS (FIELD SANITATION)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 – 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-180-10

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state safety and health codes board has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Virginia's field sanitation standards are virtually identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — Agricultural Field Sanitation) and, except for the drinking water requirement, apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field. All agricultural employers must provide drinking water to their employees in the fields, regardless of the number of workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (FIELD SANITATION AND HEAT EXPOSURE)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts G and G-1

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers, workers and workplaces in the state, including requirements for sanitation facilities in the field and related measures to protect field workers from heat-related illness.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Without cost to the workers, agricultural employers must ensure that a sufficient quantity of suitably cool drinking water is readily accessible to workers at all times, and the workers must have an opportunity to drink up to one quart of water per hour. The water must meet state or federal public drinking water quality standards and be furnished in sanitary, closable containers. Open containers such as pails or barrels from which water must be poured or dipped are prohibited, as is the use of common drinking cups or dippers.

Employees must be cautioned against drinking water from irrigation ditches, creeks or rivers.

HANDWASHING FACILITIES — Without cost to the workers, agricultural employers must provide one handwashing facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be equipped with a tap, a basin and an adequate supply of potable running water, soap and single-use hand towels. The handwashing facilities must be located near the required toilet facilities, within 1/4 mile of the worksite or at the point of closest vehicular access to the field. The employer must also provide receptacles for sanitary disposal of handwashing waste.

TOILET FACILITIES — Without cost to the workers, agricultural employers must provide one toilet facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be adequately ventilated and appropriately screened, and have self-closing doors that are lockable from the inside. All toilet facilities must be inspected at the start of the workday to assure that they are functional, clean and sanitary; each unit must be supplied with toilet paper. The toilet facilities must be located near the required handwashing facilities, within 1/4 mile of the worksite or at the point of closest vehicular access to the field. Employers and supervisors must allow workers a reasonable time during the work period to use the facilities.

HEAT EXPOSURE — In addition to providing field workers with drinking water as outlined above, agricultural employers are required to address the potential for heat-related illness among workers in the field by including an outdoor heat exposure safety element in their written accident prevention program and associated worker training. Worker training must cover such topics as environmental and personal factors that can contribute to heat-related illness, the symptoms of heat-related illness, the role of clothing and water consumption in preventing heat-related illness, and the importance of reporting signs of illness to supervisors. Supervisors must receive similar training, and supervisors are required to relieve from duty any worker showing signs of heat-related illness, take measures to reduce the worker's body temperature, and monitor the worker to determine whether medical attention is necessary.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

→ MIGRANT LABOR LAW (FIELD SANITATION)

STATUTORY CITATION: Wis. Stat. §§ 103.90 - 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.09

GENERAL SUMMARY: Using the rulemaking authority in Wisconsin's migrant labor law, the state labor department has adopted administrative regulations requiring certain agricultural employers to provide toilet facilities, handwashing facilities and drinking water to their employees, without cost to the workers. The regulations apply to operations where 6 or more migrant workers are engaged in hand labor in the field.

SPECIFIC TERMS AND CONDITIONS

TOILET FACILITIES — Wherever there are 6 or more migrant workers performing hand labor operations, the employer must provide toilet facilities, in the ratio of one toilet for every 20 workers. The facilities must be located within 1/4 mile of the workers or at the closest vehicular access. Each toilet unit must have a door that is lockable from the inside and include an adequate supply of toilet paper.

HANDWASHING FACILITIES — The employer must also provide at least one handwashing facility for every 20 workers, located within 1/4 mile of the workers or at the closest vehicular access.

Exception — If providing handwashing facilities creates a practical difficulty or hardship, the employer may apply to the state enforcement agency for a variance authorizing substitution of pre-packaged towelettes instead, provided the substitution does not compromise the health or safety of the workers.

DRINKING WATER — Potable drinking water must be provided for the workers, at a readily accessible location. The water must be kept cool, in insulated containers that are clean and sanitary. The water must be dispensed in single-serving drinking cups; the use of common cups or dippers is prohibited.

In all cases, workers must be allowed reasonable opportunities during the workday to use the facilities provided.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). A migrant worker who has been denied drinking water or sanitation facilities in the field in violation of these requirements may file a complaint with the Department, which is authorized to investigate the complaint and take action to assure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

Arizona

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (SHORT-HANDLED HOES)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-605

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Except in greenhouse or nursery operations, the use of a hoe with a handle less than 4 feet in length for weeding or thinning crops on farms is prohibited.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

O INDUSTRIAL HEALTH SERVICE ACT

STATUTORY CITATION: Ark. Code §§ 11-5-201 - 11-5-208

GENERAL SUMMARY: The Industrial Health Service Act requires the state health department to investigate places of employment and study conditions which may contribute to ill health among the workforce, and authorizes the State Board of Health to adopt regulations pertaining to the control of industrial health hazards, including rules governing water supplies, toilet facilities, washing facilities and other matters affecting maintenance of workers' health. The Act implicitly applies to agricultural workplaces and to farmworkers.

PROVISIONS APPLICABLE TO AGRICULTURE: The State Board of Health has adopted no standards in agriculture under authority of the Industrial Health Service Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Arkansas Department of Health, Little Rock, Arkansas 72205. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

California

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAND-HELD TOOLS)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, § 3456

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

SHORT-HANDLED HOES — The use of a hoe or any other hand tool less than 4 feet in length is prohibited in weeding, thinning and similar agricultural operations when the hoe or other tool is used in a stooped, kneeling or squatting position. Likewise, a hand tool 4 feet long or longer used for these same operations may not be used as a short-handled hand tool in a stooped, kneeling or squatting position.

HAND WEEDING — Hand weeding, hand thinning, and hand hot-capping in a stooped, kneeling or squatting position is not permitted in most agricultural operations, unless there is no readily available, reasonable alternative means of performing the work; the employer bears the burden of justifying use of this exception. Likewise, occasional or intermittent hand weeding, hand thinning or hand hot-capping in a stooped, squatting or kneeling position is permissible, provided the worker is devoting no more than 20 percent of his or her weekly work time to hand operations.

HAND WEEDING REQUIREMENTS — In general, employers who require or allow workers to hand weed, hand thin, or hand hot-cap must provide them with an additional 5 minutes of rest time in the middle of each work period. The authorized rest period is figured at the rate of 15 minutes for every 4 hours of work or fraction thereof, which is counted as compensable work time and may not be deducted from wages. Workers engaged in hand weeding, hand thinning, or hand hot-capping must be provided with gloves and knee pads, as well as training to help them avoid related injuries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Minnesota

→ STATE LABOR LAWS (WORKING CONDITIONS FOR CORN DETASSELERS)

STATUTORY CITATION: Minn. Stat. § 181.84

GENERAL SUMMARY: The state labor statutes include certain protections for workers employed to detassel corn in Minnesota, including a requirement for the provision of potable water in the fields.

SPECIFIC TERMS AND CONDITIONS: Every employer of corn detasselers in the state must provide the workers with an accessible supply of potable water in the field, along with cups or other sanitary drinking facilities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Because this section of the state labor laws does not include enforcement or penalty provisions, the only recourse for corn detasselers denied the benefit of drinking water at the job site is action against the employer in civil court, using a private attorney or public legal service provider. However, there appears to be no statutory right to sue under this law.

New Mexico

OCCUPATIONAL HEALTH AND SAFETY ACT; MISCELLANEOUS LABOR LAWS (AGRICULTURAL TOOLS)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25 and § 50.4.31

RELATED REGULATIONS: N.M. Code R. § 11.5.4.10

GENERAL SUMMARY: Under rulemaking authority in the Occupational Health and Safety Act and a provision in the state labor statutes outlawing mandatory use of short-handled hoes, the state Environmental Improvement Board has adopted limitations on the use of certain tools for weeding and thinning of crops by hand.

SPECIFIC TERMS AND CONDITIONS: On any farm or at any agricultural establishment where workers are employed on any given day in hand-labor operations in the field, the use of a hoe, knife or fork less than 4 feet in length for weeding and thinning crops is prohibited.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of this provision.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL HEALTH AND SAFETY ACT (EMERGENCY MEDICAL CARE)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.12

GENERAL SUMMARY: Under rulemaking authority in the Occupational Health and Safety Act, the state Environmental Improvement Board has adopted a regulation related to emergency medical care for agricultural workers in the field.

SPECIFIC TERMS AND CONDITIONS

FIRST AID — Where there are no clinic or hospital facilities in near proximity to an agricultural workplace, one or more workers or other individuals must be adequately trained to render first aid. Adequate first aid supplies must be readily available.

EMERGENCY WASHING FACILITIES — Where a worker or other person in the agricultural work area may be exposed to corrosive materials (including agricultural chemicals, among other substances), the employer must provide suitable facilities for immediate flushing or drenching of the eyes and body in the event of an emergency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of this provision.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

MISCELLANEOUS LABOR LAWS (SHORT-HANDLED HOES)

STATUTORY CITATION: Tex. Labor Code §§ 52.021 - 52.022

GENERAL SUMMARY: Chapter 52 of the state labor laws includes a provision prohibiting the compulsory use of certain short-handled hoes in agricultural labor.

SPECIFIC TERMS AND CONDITIONS: It is a Class C misdemeanor for an employer of agricultural workers to require an employee to use a hoe with a handle less than 4 feet in length in the performance of agricultural labor in commercial farming operations other than greenhouses and nurseries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. Each violation is punishable by a fine of up to \$500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: 29 USC §§ 651 - 678 RELATED REGULATIONS: 29 CFR § 1910.142

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has developed and adopted regulations governing temporary labor camps, generally understood to mean employer-provided housing facilities for the seasonal use of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers operating a temporary labor camp must comply with specific standards covering the location and construction of such housing and the facilities provided therein.

SITE — Among other requirements, sites must be adequately drained, unsusceptible to periodic flooding, and located no closer than 200 feet to surface collections of water. Sites must be large enough to prevent crowding of structures and must be at least 500 feet from areas where livestock is kept.

CONSTRUCTION — The housing units must protect occupants from exposure to the elements. Sleeping rooms must contain at least 50 square feet of floor space per occupant and have ceilings at least 7 feet in height. Beds must be provided and spaced according to numerical limits on crowding. Floors, windows, doors, heating, and cooking facilities must meet specific rules of construction and safety.

WATER SUPPLY — An adequate and convenient water supply, approved by a state or local health authority, must be provided.

TOILET FACILITIES — An adequate number of toilet facilities in relation to the capacity of the camp must be provided, in accordance with space and design specifications.

SEWAGE DISPOSAL FACILITIES — All toilets and drains must be connected to a public sewer system, where available.

LAUNDRY AND BATHING FACILITIES — Laundry, handwashing, and bath or shower facilities, with hot and cold running water, must be provided in specified ratios, related to the camp's occupancy. Clothes-drying facilities must also be provided.

LIGHTING — Where electricity is available, light fixtures and electrical outlets must meet minimum requirements as to number and location.

REFUSE DISPOSAL — At least one garbage container, of a type approved by a state or local health authority, must be furnished for each family unit, within 100 feet of the unit. Garbage containers must be emptied when full, but no less often than twice a week.

KITCHEN AND FOOD SERVICE FACILITIES — Facilities and equipment used for preparing and serving meals must comply with specified food service standards.

INSECT AND RODENT CONTROL — Preventive pest control measures must be followed.

FIRST AID — Adequate and accessible first-aid facilities, approved by a public health authority, must be supplied and maintained in every camp, for emergency treatment of injuries.

COMMUNICABLE DISEASE REPORTING — The person in charge of the camp must report to the local public health authority all cases of communicable disease, food poisoning, and similar outbreaks.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect temporary labor camps, investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating temporary labor camps have been approved and are in effect in the following states: Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington.

Arizona

ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 – 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the industrial commission has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Arizona's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251). Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by ADOSH. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

EMPLOYEE HOUSING ACT

STATUTORY CITATION: Cal. Health & Safety Code §§ 17000-17062.5

RELATED REGULATIONS: Cal. Code Regs. Title 25, §§ 600–940

GENERAL SUMMARY: The Employee Housing Act requires the licensing and inspection of labor camps and other housing facilities provided to 5 or more workers by their employer, and certain rural housing accommodations used by 5 or more agricultural workers as a temporary or seasonal residence. The Act also establishes formal procedures for filing and resolving complaints related to employee housing facilities and defines certain tenants' rights regarding retaliation and eviction.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may operate a labor camp without a valid permit issued by the state. A permit may be issued for from one to 5 years, depending on the type of facility, and the issuance of a permit requires the payment of a fee.

INSPECTIONS — At least once each year, state or local enforcement officials must inspect all registered labor camps and any attached equipment and accommodations, to assure compliance with detailed health and safety standards, key elements of which are summarized as follows.

Site and Structures — The site of each labor camp must be well drained. No housing structure may be located any closer than 75 feet from any livestock or poultry holding area. All structures must be maintained in a safe and sanitary condition, and must provide camp occupants with adequate shelter against the elements.

Sleeping Areas — Sleeping areas for more than one person must afford no less than 50 square feet of space for each occupant, with a minimum average ceiling height of 7 feet. Suitable and separate beds are required for all residents, and the operator must furnish a clean, sanitary mattress and other bedding to any occupant who requests it; residents may be charged a reasonable fee for bedding.

Kitchens and Mess Halls — Community kitchens and mess halls must be equipped with suitable refrigeration, dishware, utensils and shelf space. Covered trash containers must be provided near each unit and must be emptied regularly.

Fire Equipment — In every community kitchen, dining area and dormitory, there must be prescribed fire extinguishing equipment, maintained in good operating order.

Plumbing Systems — Pipes, drains and plumbing fixtures must be kept clean and in good working order. No less than one toilet and one bathing facility must be provided for every 10 camp occupants (or one for every 15 in camps constructed or remodeled before January 22, 1973). If toilets other than water-flush units are utilized, they may not be any closer than 50 feet or more than 200 feet from sleeping quarters. Underground sewage disposal systems must be insect- and rodent-proof.

Water — Potable water which meets prescribed sanitation standards must be available for all employees who are furnished housing. Water storage and distribution systems must be kept clean and sanitary.

Heating — In temporary and seasonal labor camps, heating equipment is not required (except in shower rooms), unless such equipment is necessary to maintain a minimum average temperature of 70 degrees F. Fuel storage and distribution systems such as gas tanks, gas pipes and outlets must be constructed and maintained in safe condition. All fuel-burning heaters require proper venting. Cook stoves and gas hotplates may not be used as room heaters.

Electrical Systems — Electrical fixtures, wiring and safeguards must be maintained in good working order. The electrical system must be protected with properly rated fuses or circuit breakers. There must be light fixtures and electrical outlets in specified minimum numbers in all habitable rooms and in bath and toilet rooms.

COMPLAINTS — Any person residing in housing subject to the Act may file a complaint with the state or local enforcement agency, provided the complainant also delivers a copy of the complaint to the employer at the same time. The state enforcement agency is required to keep a file of all complaints and other significant information regarding labor camp maintenance and operation, and to make such information available to state and local law enforcement agencies.

TENANTS' RIGHTS — No one who operates a labor camp consisting only of permanent units may increase rent, decrease services, evict, threaten not to renew tenancy, or otherwise retaliate against a tenant because of a complaint by the tenant concerning the housing facility or the exercise of any other right under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employee Housing Program, Codes and Standards Division, California Department of Housing and Community Development, Sacramento, California 95833 (916-445-9471). The Department is responsible for licensing of labor camps and other employee housing facilities, conducting the annual housing inspections required under the Act, and processing complaints by aggrieved tenants.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any city, county or city-county unit may assume responsibility for enforcement of the Act and related regulations, by presenting written notice to the Department. Under certain conditions, the Department may transfer enforcement responsibility to the local unit or units of government. In any case, the Department retains the right to enforce the Act and its associated standards at the local level if the local agency has failed to discharge its duties. PRIVATE CIVIL ACTION — If the state or local enforcement agency does not commence civil enforcement action in response to a complaint regarding an employee housing facility within 21 days after receiving the complaint, the complainant may bring suit against the respondent directly, utilizing a private attorney or public legal service provider.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. California's temporary labor camp standards are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Colorado

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

STATUTORY CITATION: Colo. Rev. Stat. § 25-1.5-101

RELATED REGULATIONS: 6 Code Colo. Regs. 1010-11

GENERAL SUMMARY: Using rulemaking authority under Article 1.5, Part 1 of the state health statutes, the state board of health has established regulations governing the operation of labor camps.

PROVISIONS APPLICABLE TO AGRICULTURE

Any building, trailer, tent, vehicle or other structure used as temporary living quarters for one or more farmworkers (among other types of employees) must comply with sanitation and safety standards adopted by the board of health and summarized below. The regulations do not include licensing requirements.

CAMP SITE — The land on which the worker housing facility is located must be well-drained and adequately protected against potential health and safety hazards. Camp structures must be at least 50 feet from any livestock or poultry pen. The camp operator is responsible for the clean, safe and sanitary condition of the premises prior to each occupancy.

WATER SUPPLY — The water system must be constructed and maintained in such a way as to assure camp residents of a safe and adequate supply of water which meets prescribed standards. There must be hot water available for bathing, laundry and dishwashing purposes.

WASTE DISPOSAL — Where a public sewer system is available, the camp's drains and sewage lines must be connected to it. Otherwise, the camp must have its own sewage disposal system which meets state requirements.

TRASH AND GARBAGE DISPOSAL — The camp operator is required to provide metal containers with tight-fitting lids for the temporary storage of garbage and other refuse.

PEST CONTROL — Rodents, insects and other pests must be effectively controlled, through the use of sanitary practices by occupants, extermination, and other safe and effective control methods.

BUILDING STANDARDS — Dwelling units must be structurally sound and provide suitable protection of the occupants against the elements. Living areas must provide prescribed minimum floor space for each occupant, and habitable rooms must comply with minimum standards of lighting, ventilation and safety.

HEATING — Where artificial heating is required, all dwellings and shower rooms must have properly installed heating equipment capable of maintaining a room temperature of 68 degrees F.

LIGHTING — Where electric service is available within 500 feet of the property, each habitable room and service room must be provided with at least one ceiling-type light fixture and one separate electrical outlet.

HOUSEHOLD EQUIPMENT — Tables, chairs, beds, and shelving or clothing hooks must be furnished in each unit. Each occupant must have a bed, bunk or cot, along with a mattress.

COOKING AND EATING FACILITIES — All housing, whether for single-family or common use, must have kitchen facilities, including counters, shelves, stoves and dishwashing equipment. Where electricity is available, mechanical refrigeration is required.

TOILET, BATHING, AND LAUNDRY FACILITIES — Toilets, wash basins, showers or tubs, sinks, and laundry equipment must be provided in the minimum numbers specified in the regulations, according to the type of occupancy. Plumbing fixtures must be maintained in good working order and in clean and sanitary condition. Where facilities are shared by more than one family, there must be separate toilet rooms for each sex. Toilets must be located within 200 feet of each dwelling unit, but no privy may be any closer than 50 feet.

FIRE PROTECTION — The camp premises and all structures on the property must be used and maintained in accordance with local fire prevention regulations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

EMPLOYEE PROTECTION LAWS (LABOR HOUSING)

STATUTORY CITATION: Conn. Gen. Stat. § 31-47

GENERAL SUMMARY: Any person, firm or corporation that maintains or has charge of any structure used as housing for laborers in its employ must, within 72 hours after occupancy by such workers, notify the local health authority in which the structure is located. Within 5 days after notification, the local health authority is required to conduct a sanitation and safety inspection of the premises and may issue an order for appropriate corrective action, or forbid use of the housing altogether, if the housing poses a threat to the health of the occupants. Anyone who violates this provision or fails to comply with an order of a local health authority issued pursuant to this provision is subject to a fine of up to \$100.

PROVISIONS APPLICABLE TO AGRICULTURE: The notification and inspection requirements of this section apply implicitly to agricultural employers.

SPECIAL NOTES OR ADVISORIES

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the temporary labor camp standard enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards), since Connecticut does not have an OSHA-approved job safety and health plan.

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department is responsible for investigating all complaints of violations of the state labor laws, and for reporting violations to appropriate public prosecutors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - City, town and borough health directors or agencies are responsible for conducting the housing inspections required by this provision.

Hawaii

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 - 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Hawaii's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to comply with the temporary labor camp standards. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 – 5-1103

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor commissioner has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Maryland's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 325.51131 - 325.51142

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Michigan's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). In response to a complaint or on its own initiative, MIOSHA representatives may enter any public or private property in the state to inspect a temporary labor camp or determine if such a facility is in operation. Employers found to have violated any aspect of the labor camp standards will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

○ STATE HEALTH AND SAFETY LAWS (WORK CAMPS)

STATUTORY CITATION: Mont. Code §§ 50-52-101 – 50-52-108

GENERAL SUMMARY: Chapter 52 of the state health and safety laws authorizes the state health department to adopt rules governing the construction and operation of work camps (among other types of temporary housing), briefly defined as housing facilities provided by an employer for 2 or more families or individuals living separately, for the exclusive use of the employer's workers and their families. A work camp may not be operated without a license from the state, and anyone operating a work camp must permit inspections by state or local health officers at all reasonable times.

PROVISIONS APPLICABLE TO AGRICULTURE: The term "housing" used to define what constitutes a work camp does not include shelter provided by an employer for persons employed as farm or ranch workers. Hence, the work camp licensing and inspection provisions do not apply to agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Food and Consumer Safety Section, Montana Department of Public Health and Human Services, Helena, Montana 59601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 12, Part II

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration regulating temporary labor camps provided by employers for the use of their workers (see entry, U.S. — Housing — General Employee Housing Standards). Nevada's temporary labor camp standards apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

PRIMARY ENFORCEMENT AGENCY – Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). Any worker or worker representative who is aware of a violation of the temporary labor camp standards may request an investigation by notifying NVOSHA. If an inspection confirms failure to comply, the agency may issue a citation or notice to the employer involved. A final order for compliance is enforceable in civil court. Violators of the Act are subject to administrative fines assessed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE SANITATION LAWS (CONSTRUCTION AND LABOR CAMPS)

STATUTORY CITATION: Nev. Rev. Stat. §§ 444.130 - 444.200

RELATED REGULATIONS: Nev. Admin. Code §§ 444.550 - 444.566

GENERAL SUMMARY: Chapter 444 of the state statutes regulates health and sanitation conditions at construction and labor camps in Nevada which house 5 or more employees, implicitly including agricultural workers. The state board of health has adopted detailed standards that such facilities are required to meet as a precondition for issuance of a permit to operate.

SPECIFIC TERMS AND CONDITIONS: Every labor camp that houses 5 or more employees must conform to the health and sanitation standards outlined below, and each such facility is subject to periodic inspection by state and local health authorities.

GENERAL STANDARDS — The structures and grounds must be maintained in a clean, safe and sanitary condition. There must be an adequate and convenient supply of water for drinking, cooking, bathing and laundry purposes.

LIVING AND SLEEPING QUARTERS — Sleeping areas must be maintained in clean condition, must provide occupants with effective shelter against the elements, and must be constructed in such a fashion as to assure each occupant an adequate supply of fresh air. The camp owner or operator is required to furnish each resident with a suitable bunk or bed and, if requested by the occupant, a mattress or equivalent sanitary bedding. There must be at least 35 to 40 square feet of floor space per worker in each sleeping area. Heating facilities that meet prescribed safety standards must be provided when a camp is operated during a season and in a climate requiring artificial heating.

COOKING AND EATING FACILITIES — Rooms and structures where food is cooked, prepared or served must be kept clean and sanitary, with doors and windows properly screened. Cookware, dishes and eating utensils must be kept in a clean, unbroken and sanitary condition. There must be facilities for safe storage and refrigeration of food.

TOILET FACILITIES — Every camp must be provided with convenient and suitable privies or other toilet facilities, maintained in a clean and sanitary state. Privies must be screened or otherwise fly-proof, and must be situated over a pit at least 2 feet deep.

BATHING FACILITIES — Convenient and suitable bathing facilities must be provided and maintained in sanitary condition, readily accessible to the living quarters. Where showers are provided for bathing, there must be at least one functioning showerhead for every 15 workers; where bathtubs are used, there must be at least one tub in good condition for every 5 workers. All bathing facilities must have adequate hot and cold water under pressure.

LAUNDRY FACILITIES — At least one laundry tray, wash tub or other laundry facility — equipped with hot and cold water — must be provided for every 10 workers or fraction thereof.

GARBAGE AND SEWAGE DISPOSAL — Covered receptacles for garbage and trash must be supplied by the camp operator, and the contents must be burned, buried or otherwise disposed of in such a way that the refuse does not become offensive or unsanitary. Drainage from kitchen sinks must be carried through a covered drain to a covered septic tank or other sanitary disposal system.

LIGHTING — All habitable rooms must be well lighted. Living, dining and toilet rooms must be equipped with ceiling- or wall-type light fixtures. Where electricity is unavailable, there must be at least one lamp provided for every 5 workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Health Section, Division of Public and Behavioral Health, Nevada Department of Health and Human Services, Carson City, Nevada 89701 (775-687-7533). Representatives of the Department are expressly authorized to enter, during normal business hours, any public or private property where a construction or labor camp is operated, and to inspect all such facilities and the accommodations and equipment connected therewith. Any camp found out of compliance with state standards is regarded as a public nuisance and will be given a reasonable time after written notice to correct the deficiencies. Failure to take corrective action may result in misdemeanor charges in district court against the individual or entity in charge of work in or at the camp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Local boards of health are vested with the same inspection and citation authority as exercised by the Department of Health and Human Services in enforcement of the labor camp provisions.

New Mexico

OCCUPATIONAL HEALTH AND SAFETY ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.2.9(A)

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted standards regulating temporary labor camps provided by employers for the use of their workers. New Mexico's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of the temporary labor camp standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 - 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0101

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. North Carolina's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). If there are reasonable grounds to believe an employer has not complied with the temporary labor camp standards, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

OCCUPATIONAL SAFETY AND HEALTH ACT (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Puerto Rico's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

PRIMARY ENFORCEMENT AGENCY – Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Discovery of a violation of the temporary labor camp standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 – 50-3-2001 RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-01

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Tennessee's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

UTAH HEALTH CODE (MINIMUM RULES OF SANITATION)

STATUTORY CITATION: Utah Code § 26-15-2

RELATED REGULATIONS: Utah Admin. Code R. 392-501

GENERAL SUMMARY: Chapter 15 of the Utah Health Code authorizes the state health department to establish minimum rules of sanitation for numerous types of establishments and facilities, including construction or labor camps.

PROVISIONS APPLICABLE TO AGRICULTURE: Labor camp sanitation standards, major elements of which are summarized below, have been adopted by the health department under the rulemaking authority cited above. In part, these provisions apply to one or more temporary or permanent structures, together with the surrounding grounds, used as living quarters for groups of migrant laborers.

CAMP SITE — Each labor camp site must provide adequate surface drainage and may not be located closer than 100 feet to any livestock holding facility or any potential health hazard.

WATER SUPPLY — A supply of potable water which meets state water quality standards must be provided, under pressure, at each camp. The water system must generally supply at least 50 gallons per day per person.

WASTEWATER DISPOSAL — Wastewater must be discharged into a public sewer system where such a system is accessible within 300 feet of camp property. If connection to a public system is not possible, there must be an alternate disposal system that meets state standards.

PLUMBING — Adequate plumbing fixtures must be made available for all camp occupants. Where toilet facilities for males and females are located in the same building, they must be separated by a sound-resistant wall. The camp operator is required to furnish soap, towels (or approved equivalent hand-drying facilities) and toilet paper. Bathing facilities must be supplied with hot water, at a minimum temperature of 90 degrees F.

LAUNDRY FACILITIES — Essential laundering facilities must be made available to camp residents. If furnished at the camp, there must be at least one washing machine, washtub or laundry tray for every 40 occupants.

BUILDINGS AND MAINTENANCE — Structures must be soundly constructed, well lighted, and adequately heated and ventilated.

SLEEPING ACCOMMODATIONS — Each bed, bunk or cot, as well as mattresses and other bedding, supplied to residents for sleeping purposes must be maintained in a sanitary condition. The camp operator must provide bedding to occupants not furnishing their own.

FOOD SERVICE — Where occupants are permitted or required to cook their own meals, the camp operator must provide each unit with a functioning cook stove, fuel, a refrigerator, a kitchen sink, and adequate food storage space.

SOLID WASTE — Trash and garbage containers, equipped with lids, must be conveniently located for the use of camp residents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by the local health departments having jurisdiction over the respective labor housing facilities. If, in response to a complaint or other report, the local health department finds a health hazard at a labor housing facility which requires immediate action to protect human health and safety, the local health department may order the camp owner or operator or any other party contributing to the condition to take appropriate steps to eliminate the hazard. The local health department may require that a permit to operate be issued before a labor housing facility may be built or occupied.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Bureau of Epidemiology, Division of Disease Control and Prevention, Utah Department of Health, Salt Lake City, Utah 84114 (801-538-6191).

Vermont

OCCUPATIONAL SAFETY AND HEALTH LAWS (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Vermont's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). If inspection or investigation yields evidence of a violation of the temporary labor camp standards, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

OCCUPATIONAL SAFETY AND HEALTH LAWS (TEMPORARY LABOR CAMPS)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 - 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Virginia's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) and apply to all farm operators and other agricultural establishments that maintain worker housing facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (TEMPORARY WORKER HOUSING)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Part L

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to agricultural employers, workers and workplaces in the state, including regulations governing temporary worker housing.

SPECIFIC TERMS AND CONDITIONS: Washington's temporary worker housing standards, which apply to all farm operators and other agricultural establishments that provide temporary housing for their employees, are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards) but include unique provisions of particular note, some of which are summarized here:

LICENSING — Unlike the OSHA standards, the regulations adopted by the state require that temporary worker housing be *licensed*, provided the facility is occupied by 10 or more workers, or consists of 5 or more dwelling units (see next entry).

MAXIMUM OCCUPANT CAPACITY — The regulations limit the capacity of housing facilities, based on (1) existing floor space in habitable rooms used for sleeping, and (2) the actual number of toilet, handwashing, bathing, food-handling and laundry facilities available.

TENTS — Tents are allowed to be used as housing for temporary workers, but only while employed for the harvest of cherries. Each tent must be constructed to sleep no more than 15 workers.

SAFETY DEVICES — There must be a functioning, properly installed carbon monoxide alarm in each dwelling unit with a sleeping area. Likewise, there must be a properly installed and working smoke alarm in each sleeping area and in each cooking area. Fire extinguishers are required in dwelling units where occupants sleep if the unit does not have a second means of emergency escape.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Temporary Worker Housing Program, Office of Environmental Health and Safety, Washington State Department of Health, Olympia, Washington 98504 (360-236-3330). This agency is responsible for inspection and licensing of temporary worker housing facilities in Washington.

TEMPORARY WORKER HOUSING LAW

STATUTORY CITATION: Wash. Rev. Code §§ 70.114A.010 - 70.114A.901

RELATED REGULATIONS: Wash, Admin, Code Chs, 246-358 and 246-359

GENERAL SUMMARY: Chapter 70.114A of the public health and safety statutes authorizes the state health department to develop regulations governing temporary worker housing in Washington, and to work with the state labor department to establish a streamlined administrative process for inspection and licensing of such facilities. The law applies to temporary worker housing — agricultural and otherwise — that consists of 5 or more dwelling units, or any combination of dwelling units that house 10 or more occupants.

SPECIFIC TERMS AND CONDITIONS: Using the rulemaking authority referred to above, the state health department has adopted detailed rules regulating temporary worker housing facilities, briefly outlined here.

LICENSING — In general, the owner or operator of a temporary worker housing facility must apply to the state health department for a license before the facility is occupied each year. Before a license is issued, the facility must be inspected or the operator must submit and receive approval of a self-survey.

Exception — Camps for workers employed in the harvest of cherries must be inspected before occupancy. A license to operate a cherry harvest camp is limited to one week before the start of the harvest through one week after the harvest concludes. Cherry harvest camps are the only form of housing in which tents may be used to house temporary workers.

MAXIMUM OCCUPANT CAPACITY — The regulations limit the capacity of housing facilities, based on (1) existing floor space in habitable rooms used for sleeping, and (2) the number of toilet, handwashing, bathing, food-handling and laundry facilities actually available.

HOUSING STANDARDS — Among many other licensing conditions that temporary worker housing must meet are these:

Site — The housing site must be adequately drained, at least 200 feet from pools of standing water, and large enough to prevent overcrowding of structures.

Water Supply — The water supply and distribution system must be constructed and maintained in accordance with state regulations. In general, there must be hot and cold running water in each central bathing, laundry, cooking or food-handling facility at all times, and all family units must be provided with hot and cold running water under pressure.

Sewage Disposal — All sewage and waste water must be drained into an approved public or on-site disposal system.

Electricity and Lighting — The dwelling units must have electric service, and rooms must be properly equipped with light fixtures and electrical outlets. Living areas and service rooms must be adequately lighted.

Building Construction — Dwelling units and common facilities must protect against the elements and comply with state and local building codes. There must be locking mechanisms on all exterior doors, bedroom doors, and toilet and shower doors (if provided). Buildings must be maintained in good repair and sanitary condition. Housing must comply with prescribed minimum requirements on floor space and ceiling height.

Safety Devices — There must be a functioning, properly installed carbon monoxide alarm in each dwelling unit with a sleeping area. Likewise, there must be a properly installed and working smoke alarm in each sleeping and cooking area. Fire extinguishers are required in dwelling units where occupants sleep if the unit does not have a second means of emergency escape.

Laundry Facilities — The housing operator must provide at least one laundry tray or tub, or one mechanical washing machine, for every 30 occupants. There must also be adequate facilities for drying clothes.

Toilet Facilities — There must be flush toilets (or chemical toilets, if approved by the health department) in numbers adequate for the maximum capacity of the housing; pit toilets or privies are not allowed. In general, shared facilities must have at least one toilet for every 15 occupants. Toilets must be located within 200 feet of the door of each sleeping room. Toilet rooms must be adequately ventilated and screened and maintained in clean and sanitary condition.

Handwashing and Bathing Facilities — The housing operator must provide handwashing and bathing facilities in numbers adequate for the maximum capacity of the housing. In general, shared facilities must have at least one wash basin for every 6 occupants and one showerhead for every 10.

Cooking and Food-Handling Facilities — There must be cooking, food storage and eating facilities in each individual unit, or common food handling facilities that meet prescribed specifications. Among other requirements, in each individual unit or common facility there must be an operable cook stove or hotplate, and mechanical refrigeration capable of maintaining a temperature of 40 degrees F. or below.

Sleeping Facilities — The operator must provide adequate numbers of beds, cots or bunks, furnished with clean mattresses in good condition. Beds must be located and spaced as prescribed in the regulations. For each occupant housed in a common sleeping facility, there must be a suitable enclosed storage space that is lockable and accessible to the occupant.

First Aid and Safety — The use, storage or mixing of flammable, volatile or toxic substances other than those intended for household use is prohibited in the housing area. First aid equipment must be provided by the housing operator and kept readily accessible to residents.

Refuse Disposal — The operator must follow local sanitation codes for removing and disposing of trash. Trash and garbage must be stored in fly-tight, rodent-proof, cleanable containers, or in single-use containers. There must be at least one trash container per dwelling unit, located within 100 feet of each unit. Containers must be emptied when full, but no less often than twice each week.

Pest Control — Appropriate measures must be taken to control rodents and insects.

Disease Prevention and Control — The housing operator is required to immediately report to the local health department (1) the name and address of any occupant known to have or suspected of having a communicable disease, and (2) any case of suspected food poisoning or other unusual health incident or situation.

PRIMARY ENFORCEMENT AGENCY – Temporary Worker Housing Program, Office of Environmental Health and Safety, Washington State Department of Health, Olympia, Washington 98504 (360-236-3330). This agency is responsible for inspection and licensing of temporary worker housing facilities in Washington. On its own or in response to a report of an alleged violation, the Department may inspect any facility subject to these provisions and take action to have the facility's operator correct a confirmed violation. Failure to correct a violation may result in a civil fine or modification, suspension or revocation of the facility's license. Civil fines are also prescribed for failure or refusal to obtain a temporary worker housing license prior to occupancy.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). Temporary worker housing facilities are also subject to inspection by this agency, which enforces very similar health and safety standards.

U.S.

WAGNER-PEYSER ACT

STATUTORY CITATION: 29 USC §§ 49 - 491

RELATED REGULATIONS: 20 CFR §§ 654.400 - 654.417

GENERAL SUMMARY: The Wagner-Peyser Act established the nationwide system of state-operated public employment offices. Under this law, the Secretary of Labor is authorized to adopt regulations necessary to assure the proper function of the state workforce agency network, including appropriate recruitment services for employers in need of personnel, and job search and placement services for job-seekers.

PROVISIONS APPLICABLE TO AGRICULTURE: No employer may use the federal-state employment service system (including local public employment offices) to recruit agricultural workers from places outside the area of intended employment unless certain conditions are met relating to employee housing. With respect to any housing the employer is required to provide or intends to provide under an interstate or intrastate job order, state agency recruitment services will be denied unless (1) the employer has signed an assurance of compliance, (2) a pre-occupancy housing inspection has been conducted, and (3) the state agency has determined that the housing meets the applicable federal standards outlined below.

HOUSING CONSTRUCTED AFTER APRIL 3, 1980 — Farm labor housing facilities constructed on or after April 3, 1980 (or for which a construction contract was signed after March 4, 1980) must meet the standards prescribed by the U.S. Occupational Safety and Health Administration for temporary labor camps, summarized in the preceding entry.

HOUSING CONSTRUCTED BEFORE APRIL 3, 1980 — Housing facilities constructed or under construction prior to April 3, 1980 (or for which a construction contract was signed prior to March 4, 1980) must meet either the OSHA temporary labor camp regulations referred to above, or the agricultural worker housing standards prescribed by the U.S. Employment and Training Administration. The ETA standards contain specifications in the following areas:

Housing Site — Sites must be well-drained and sanitary and must provide reasonable recreation space.

Water Supply — The facility must provide an adequate and convenient supply of water that meets state health standards.

Waste Disposal Facilities — There must be facilities for effective disposal of sewage.

Housing Structures — Housing must be structurally sound, in good repair and in sanitary condition. Sleeping areas must provide at least 50 square feet of floor space per occupant in family units and in single-bed dormitories, 40 square feet per occupant in dorms with double bunk beds, or 60 square feet per occupant in combined cooking, eating and sleeping areas. Units must also meet specifications regarding partitions, ceiling heights and window area.

Screening — All outside openings must be equipped with screens.

Heating — Heating devices must be provided if outside temperatures during periods of normal occupancy fall below 68 degrees F. Stoves and combustible-fuel heaters must be vented and comply with other prescribed safety standards.

Electricity and Lighting — All housing sites must be provided with electric service, and units must be equipped with safe and operable light fixtures and outlets.

Toilets — Toilets or privy seats, in the ratio of not less than one for each 15 occupants and located within 200 feet of each living unit, must be provided and must meet other numerical and qualitative standards.

Bathing and Laundry Facilities — Bathing and laundry facilities, supplied with hot and cold water under pressure, must be located within 200 feet of each living unit. Among other requirements, there must be at least one showerhead and one wash basin for every 15 persons.

Cooking and Eating Facilities — Cook stoves or similar equipment, as well as food preparation and storage space, must be furnished, in conformity with detailed criteria.

Garbage Facilities — Each unit must have nearby access to clean, fly-tight containers for the disposal of garbage and other refuse, in a minimum ratio of one such container for every 15 occupants. Provision must be made for collection at least twice a week.

Insect and Rodent Control — Housing and facilities must be free of insects, rodents and other pests.

Sleeping Facilities — Beds, cots or bunks, together with clean mattresses, must be provided for all occupants.

Safety and First Aid — All structures must be maintained in accordance with state or local fire and safety laws, must provide practical means of escape, and must be equipped with fire extinguishing and first-aid equipment. No flammable liquids or materials other than those for immediate household use may be stored in or around living areas, and agricultural pesticides and toxic chemicals may not be stored in proximity to the housing units.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3046). ETA monitors the operation of the federal-state public employment service system and is responsible for assuring that employers who use the system comply with conditions placed on intra- and interstate job orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – In accordance with a formal written plan submitted annually by each of the 50 states and Puerto Rico, ETA delegates operation and supervision of public employment offices to the respective state agencies. Compliance with the ETA housing standards by employers using the employment service to recruit agricultural workers is the immediate responsibility of the designated state workforce agency. With respect to a housing facility proposed to be used for farmworkers recruited through the employment service, the local workforce office serving the area where the housing is located is responsible for arranging the pre-occupancy inspection required under these provisions. If, on inspection, the housing does not meet the applicable standards outlined above, the local office must immediately remove the employer's job orders from intra- or interstate clearance, and if workers have been recruited against the orders, must attempt to locate and notify the appropriate workers or crew leaders and try to find comparable alternative employment for the workers.

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

STATUTORY CITATION: 29 USC §§ 1801 - 1872

RELATED REGULATIONS: 29 CFR Part 500

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act imposes a multitude of duties and restrictions on farm labor contractors, agricultural employers, agricultural associations and other entities, in part to curb chronic abusive employment practices detrimental to the agricultural labor force. In addition to addressing such issues as worker recruitment, transportation and wages, the Act contains explicit provisions regulating the safety and health of housing provided to migrant agricultural workers.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No facility or property may be occupied by any migrant agricultural worker unless a state or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards, and no person who owns or controls the housing may permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. If, however, a request for an inspection of the housing is made to the appropriate state or local agency at least 45 days before the date on which it is occupied and the agency has not conducted an inspection by then, the facility may be occupied without the certification.

COMPLIANCE BY HOUSING PROVIDERS — In general, any person who owns or controls a facility or real property used as housing for migrant agricultural workers is responsible for ensuring that the facility or property complies with applicable federal and state safety and health standards.

COMPLIANCE BY FARM LABOR CONTRACTORS — In their application for registration under the Act, farm labor contractors are required to identify each facility or property to be used to house any migrant farmworker. If a contractor owns or controls any such facility or property, there must be documentation submitted with the application showing that the housing has been certified for occupancy. A farm labor contractor may not house migrant farmworkers unless authorization to do so is indicated on the face of the registration certificate.

SPECIAL NOTES OR ADVISORIES

COMPLIANCE EXCEPTIONS — The obligation to comply with farm labor housing standards, and the prohibition against allowing occupancy without certification, do not apply to any person who, in the ordinary course of that person's business, regularly provides housing commercially to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

JOINT RESPONSIBILITY — If more than one person is involved in providing migrant worker housing (a farm labor contractor, for example, and a farm operator who uses the contractor's services and owns the housing where the contractor's crew members are living), both are legally responsible for ensuring that the housing meets applicable standards.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). As the agency responsible for registration of labor contractors and for enforcing compliance with the Act, the Wage and Hour Division has authority to investigate complaints or suspected violations of the Act's housing provisions. The agency may suspend or revoke a contractor's registration certificate and may impose penalties on contractors, employers and housing operators who are found to have housed migrant agricultural workers in violation of the Act. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Both the Occupational Safety and Health Administration and the Employment and Training Administration administer farm labor housing standards and are cooperatively involved in the enforcement of these provisions.

PRIVATE CIVIL ACTION — Without regard to enforcement action by the U.S. Department of Labor, anyone who is aggrieved by a violation of the Act may file suit against the person or persons responsible in federal court, using a private attorney or a public legal service provider.

Connecticut

PUBLIC HEALTH CODE (SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS)

STATUTORY CITATION: Conn. Gen. Stat. § 19a-36

RELATED REGULATIONS: Conn. Agencies Regs. §§ 19-13-B55 - 19-13-B63

GENERAL SUMMARY: The state public health laws authorize the Commissioner of Public Health to establish a public health code, to include, among other provisions, field sanitation and safety protections for agricultural workers and migratory farm laborers.

SPECIFIC TERMS AND CONDITIONS: Using the statutory authority referred to above, the health commissioner has adopted migrant labor camp standards, key portions of which are outlined below. Although there is no requirement that such housing be licensed, persons who own or operate facilities used to house migrant agricultural workers must see that the facilities comply with these standards.

GENERAL REQUIREMENTS — Agricultural worker housing must be structurally safe, adequate in size, and reasonably easy to keep clean. Doors, windows and other exterior openings must be properly screened, and there must be adequate lighting and ventilation in living areas.

SLEEPING QUARTERS — Single beds must be furnished for all employees housed, together with blankets, sheets, pillows, pillow cases, and mattresses. Bedding must be kept clean and sanitary by the housing owner or operator.

COOKING AND EATING FACILITIES — Among other furnishings and equipment, kitchens are required to have adequate refrigeration and other food storage space, a cook stove, a work table, and a sink with hot water.

WATER SUPPLY — Water supplied to the housing facility must be obtained from a public water supply or from an approved ground water source. At least 30 gallons of water per day per person must be made available, under pressure.

SEWAGE DISPOSAL — Where no city sewage disposal system is available, all wastewater must be disposed of through a system approved by local health authorities.

TOILET, BATHING, AND LAUNDRY FACILITIES — Toilets, wash basins, showerheads or bathtubs, and laundry tubs must be provided in minimum specified numbers.

TRASH DISPOSAL — Metal cans with tight-fitting lids, or approved alternative facilities, must be provided to allow for storage of trash and garbage for later collection and final disposal. Trash must be hauled away as often as necessary so as not to create a nuisance at the housing site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293). Representatives of the Department may inspect any migrant labor housing facility in the state, either in response to a complaint or on its own initiative, to ascertain if the facility meets state standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state agency may delegate its labor camp inspection authority to local health departments.

AGRICULTURAL WORKER HOUSING LAW

STATUTORY CITATION: Conn. Gen. Stat. § 22-17a

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22-17a-1 - 22-17a-12

GENERAL SUMMARY: Chapter 422 of the Connecticut statutes gives the state labor commissioner authority to promulgate regulations and establish standards covering the sanitation and safety of living quarters furnished to agricultural workers and migratory farm laborers by their employers. The state agency is also authorized to conduct inspections of such housing facilities to ensure compliance.

SPECIFIC TERMS AND CONDITIONS: Although there is no statutory or regulatory requirement that agricultural worker housing be licensed, agricultural employers who provide living quarters to their employees are responsible for assuring that the housing meets the sanitation and safety standards adopted under this provision of the law. Those regulatory standards are identical to those administered by the state health services commissioner under the public health code, outlined in the previous entry.

SPECIAL NOTES OR ADVISORIES

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the temporary labor camp standard enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health & Safety — General Employee Housing Standards), since Connecticut does not have an OSHA-approved job safety and health plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). On its own initiative or in response to a complaint, the Department is authorized to inspect any housing facility provided to workers by their employer, to determine if the housing meets state standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

➡ STATE HEALTH AND SAFETY LAWS (MIGRATORY AGRICULTURAL LABOR HOUSING)

STATUTORY CITATION: Del. Code Title 16, §122

RELATED REGULATIONS: Del. Admin. Code 16-4447 §§ 1.0-7.5.2

GENERAL SUMMARY: The state health department has statutory authority to promulgate regulations for the protection and promotion of public health. Under that authority, the department has adopted rules governing construction, facilities and operation of migratory labor camps in Delaware.

SPECIFIC TERMS AND CONDITIONS: Among other requirements detailed in the regulations, migratory agricultural labor housing must meet the following minimum standards:

COVERAGE CONDITIONS — The migratory agricultural labor housing regulations adopted by the state health department generally apply to any structure, trailer or mobile home maintained or used as living quarters for 5 or more migrant farmworkers. Tents are not accepted as living quarters.

INSPECTION AND PERMIT — No one may build, advertise or open a migrant labor camp without a permit issued by the state. An application for a permit must be submitted at least 30 days before the anticipated date of arrival of the occupants. The state agency must inspect the housing before a permit is issued, to determine if the camp meets minimum standards. Permits must be renewed each year.

MINIMUM STANDARDS — A migrant labor camp may not be issued a permit unless the facility complies with detailed quantitative and qualitative standards, main elements of which are summarized as follows.

Sites — The camp must be located on well-drained ground, not subject to flooding or exposed to potential health hazards. There must be adequate nighttime lighting in yard, laundry, shower and toilet areas.

Shelter — Housing structures must be soundly constructed and provide shelter against the elements. The roof and exterior walls must be leakproof.

Heating — If temperatures during normal periods of occupancy fall below 68 degrees F., all living quarters and service rooms must be equipped with operable and properly installed heating equipment capable of maintaining a temperature of at least 68 degrees F. Stoves and heaters that use combustible fuel must be properly vented. Unless powered by electricity, portable heaters are not allowed.

Living Quarters — Camp owners or operators must furnish beds, cots or bunks, each with a clean mattress. Each room used for sleeping purposes must contain at least 50 square feet of floor space for each occupant, and rooms in all permanent structures must have ceilings no less than 7 feet high. There must be adequate ventilation in all living quarters, and all doors, windows and other exterior openings must be properly screened.

Cooking and Eating Accommodations — Both individual family units and congregate food service facilities must be equipped with a stove, refrigerator, food storage space, a table, chairs, and a sink, or their permissible equivalents.

Water Supply — The camp must have an adequate and convenient supply of state-approved water. The water supply must be capable of delivering 35 gallons per person per day.

Toilet and Bathing Facilities — Except in individual family units, there must be separate toilet and shower facilities for each sex. Toilets must be readily accessible, in no case more than 200 feet from each sleeping room. Toilets, wash basins and showers must be provided in prescribed minimum numbers.

Laundry Facilities — Laundry trays, or a combination of laundry trays and washing machines, must be furnished for the use of camp residents, in a ratio of one such facility for every 30 residents.

Lighting — There must be light fixtures and electrical outlets in all habitable rooms.

Solid Waste — The camp operator must provide covered, fly- and rodent-proof containers for the collection of garbage and trash. Safety and First Aid — There must be a first-aid kit in an easily accessible place.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220). This agency is responsible for processing labor camp permit applications, inspecting camps, and taking action to enforce compliance with the requirements outlined above. The agency may revoke or refuse to issue a permit if the housing facility is found in violation of the applicable requirements, and employers with serious or repeat violations are subject to fines ranging from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

PUBLIC HEALTH LAWS (MIGRANT HOUSING)

STATUTORY CITATION: Fla. Stat. §§ 381.008–381.00897 RELATED REGULATIONS: Fla. Admin. Code R. 64E-14

GENERAL SUMMARY: The state public health laws regulate migrant labor camps and residential migrant housing in Florida, by requiring permits for their operation, imposing a schedule of annual fees on migrant labor camp operators, and authorizing the state health department to adopt and enforce rules for the protection of the health and safety of the occupants of such facilities.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No one may establish, maintain or operate a migrant labor camp or residential migrant housing in Florida without first having obtained a permit to do so from the state, and unless the permit is kept posted in the housing to which it applies at all times during its operation.

Migrant Labor Camps — In brief, a migrant labor camp is one or more buildings, structures, barracks or dormitories established, operated or furnished as an incident of employment and used as living quarters for seasonal or migrant farmworkers, whether or not rent is paid for such use.

Residential Migrant Housing — Residential migrant housing is a building, structure, mobile home, barracks or dormitory rented or reserved for occupancy by 5 or more migrant farmworkers, but *does not include* any single-family residence occupied by a single family, or a hotel or motel furnished for transient occupancy.

APPLICATION AND FEES — A person who is planning on operating migrant housing must apply for a permit at least 30 days prior to operation, or at least 45 days prior to construction or renovation. Application fees range from \$125 to \$500, depending on the facility's occupant capacity.

INSPECTION STANDARDS — Before a permit may be issued, a migrant housing facility must be inspected and found in compliance with detailed rules adopted by the state enforcement agency for the protection of the health and safety of the occupants. Some of the key elements of the standards include the following:

Sites — Housing sites must be well-drained and free from standing water. Structures where food is prepared or sleeping quarters are located must be more than 500 feet from any area where livestock is kept.

Buildings and Structures — Housing structures must be weather-tight and provide protection from the elements. Living, sleeping and eating rooms must meet minimum specifications with respect to floor space. Wiring, plumbing, utility connections and appliances must be installed in accordance with applicable state and local codes.

Water Supply — For drinking, cooking, dishwashing and laundry purposes, an approved or permitted supply of potable water under pressure that meets state standards must be available at all times during occupancy. Water heating equipment capable of providing hot water at a minimum 110 degrees F. for bathing and dishwashing is required.

Garbage and Refuse Disposal — There must be cleanable, water-tight garbage or trash receptacles provided, with tight-fitting covers to keep out flies, insects and rodents. Refuse containers must be emptied no less than twice each week.

Pesticide Use, Storage and Disposal — Common household pesticides must be stored in a safe place, away from food and out of the reach of children. Agricultural pesticides and other toxic chemicals must be kept in a locked area if children reside in the housing facility. All such products must be disposed of in accordance with label instructions, and empty pesticide containers may not be reused to store any other substance.

Vermin Control — All farmworker housing units must be maintained free of insects and rodents. Openings to the outside must be effectively sealed or screened.

Heating — Living quarters and bathrooms must be equipped with heating devices capable of maintaining a room temperature of 68 degrees F. Non-electrical heating appliances must be properly installed and vented to the outside.

Lighting — Lighting fixtures that meet prescribed standards of illumination and location are required in all living quarters, laundry rooms, shower rooms and toilet rooms. Light bulbs must be provided by the housing owner or operator.

Sewage and Liquid Waste Disposal — Approved facilities that meet state regulatory requirements must be provided for the proper disposal of human waste.

Personal Hygiene Facilities — Toilets, urinals, showers, bathtubs, and handwashing and laundry facilities must be provided in certain minimum numbers, depending on the date of construction of the housing and the number of residents housed. Toilet, handwashing and bathing facilities must all be within 200 feet of each sleeping area. Except for individual family units, there must be separate toilet and bathing rooms for each sex. Laundry facilities must include a two-compartment stationary tub or an electric washer and dryer; if on-site laundry facilities are not provided, the housing owner or operator must provide transportation to a laundry facility off premises at least twice a week.

Food Service Facilities — In each individual family unit, there must be a stove, a sink with hot and cold water under pressure, and a refrigerator and freezer capable of maintaining temperatures at or below 41 degrees F. and 0 degrees F., respectively. Comparable facilities are required in shared- or central-cooking areas.

Sleeping Facilities — Each occupant must be provided with a bed, cot or bunk, complete with a clean mattress in good condition. Beds, cots and bunks must be elevated off the floor, leaving at least 36 inches of space between the mattress and the ceiling. Beds must be spaced no less than 36 inches apart.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for the owner or operator of a migrant labor camp or residential migrant housing facility to retaliate against residents or occupants who make complaints in good faith about housing and sanitary conditions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250). The Department's county health units review applications for permits to operate migrant housing facilities in the state, issue permits to qualified applicants, and monitor compliance with the migrant housing rules. Representatives of the county health units may enter and inspect migrant labor camps and dwelling units at reasonable hours and may investigate such facts, conditions and practices as may be necessary or appropriate to determine compliance with the law or the associated rules. The right of entry also extends to any premises which the Department has reason to believe are being maintained or operated as a camp without a permit, provided the agency first secures permission of the owner or obtains a warrant from state circuit court to enter.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

ILLINOIS MIGRANT LABOR CAMP LAW

STATUTORY CITATION: 210 Ill. Comp. Stat. §§ 110/1 - 110/25

RELATED REGULATIONS: Ill. Admin. Code Title 77, Part 935

GENERAL SUMMARY: The Illinois Migrant Labor Camp Law regulates the operation of migrant labor housing in the state, by requiring the licensing of certain labor camps and prescribing standards for the construction and equipment of all migrant labor housing facilities.

GENERAL SUMMARY: The Illinois Migrant Labor Camp Law regulates the operation of migrant labor housing in the state, by requiring the licensing of certain labor camps and prescribing standards for the construction and equipment of all migrant labor housing facilities.

SPECIFIC TERMS AND CONDITIONS

FULLY REGULATED FACILITIES — Migrant labor camps consisting of one or more buildings, structures, tents, trailers or vehicles established or operated as living quarters for 10 or more migrant agricultural workers, or for 4 or more families containing such migrant workers, are subject to the following requirements and standards, among others:

Licensing — No one may operate or maintain a migrant labor camp, as defined above, without first having obtained a license to do so from the state. To qualify for a license, a facility operated for an aggregate of 21 days or more in any calendar year must meet the minimum standards outlined below.

Inspection — The state licensing agency is required to inspect each camp at least one time before the migrant workers to be housed arrive and at least once while the camp is occupied.

Construction and Equipment Standards —

- Location and Site. The site must be properly graded, well-drained, and located so as to prevent health or fire hazards, dangerous traffic conditions, and similar hazards.
- (2) Structures. Structures must be structurally sound, in good repair and adequate in size, and must protect the occupants from the elements. Flooring must be rigidly constructed, smoothly finished, readily cleanable, and sealed against water. Living areas must be ventilated, lighted and screened. There must be at least 2 exits in each shelter for use in case of fire, and units must comply with specified numerical space requirements.
- (3) Water Supply. An adequate and convenient supply of potable water is required at all times for drinking, cooking, bathing and laundry purposes. The system must be capable of delivering at least 35 gallons per person per day.
- (4) Toilet Facilities. Separate flush toilets or privies for each sex must be provided within 200 feet of each shelter, but no privy may be closer than 100 feet from any unit. There must be at least one toilet facility for every 15 occupants.
- (5) Bathing Facilities. Bathing facilities, in a minimum ratio of one showerhead for every 10 persons, must be located within 300 feet of each living unit. Except in individual family units, there must be separate facilities for men and women. Hot and cold running water must be provided.
- (6) Laundry Facilities. Adequate laundry facilities, supplied with hot and cold water under pressure, must be made available, with trays or tubs provided in the ratio of one for every 30 occupants, or at least one mechanical washer for every 50 residents plus one tray per 100 occupants.
- (7) Cooking and Eating Facilities. Adequate counter space, food shelves, refrigeration, one stove or hotplate for every 5 occupants, and a table and chairs or equivalent seating arrangements are required in individual family units. Group cooking and eating areas must be separated from sleeping rooms. Wall surfaces adjacent to cooking areas must be fire-resistant and made of non-absorbent, easily cleaned materials.
- (8) Sleeping Facilities. Each room used for sleeping purposes must contain at least 50 square feet of floor space per occupant (100 square feet per person in combined cooking and sleeping rooms) and include beds, cots or bunks, provided with clean mattresses. Any bedding furnished by the housing operator must be clean and sanitary.
- (9) Fire and Safety Provisions. All units must be constructed in compliance with state and local fire and safety laws. There must be adequate means of escape, fire extinguishing equipment, and first-aid facilities in each structure.
- (10) Electric Service. All housing sites must be provided with electricity. There must be safe and numerically adequate numbers of lighting fixtures and electrical outlets in all living areas and common-use rooms.
- (11) Heating Equipment. If the camp operates when the outside temperature falls below 50 degrees F., properly installed and safe heating equipment must be furnished in all rooms except privies and storage sheds. Portable space heaters must have automatic shut-off systems.
- (12) Garbage Facilities. Water-tight containers with tight-fitting lids must be provided throughout the camp.

PARTIALLY REGULATED FACILITIES — Migrant labor camps used as living quarters for fewer than 10 migrant agricultural workers, or for fewer than 4 migrant families, are not required to be licensed, but they must meet the same construction and equipment standards outlined above and are subject to periodic inspection.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830). This agency is authorized to inspect any migrant labor housing facility in the state, regardless of size or duration of occupancy, and is responsible for licensing those facilities which meet applicable standards. An individual, association or firm that maintains or operates a migrant labor camp without securing a license, or in violation of the respective state standards, is subject to a fine.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of the labor camp law may file suit in state circuit court for injunctive relief, using a private attorney or public legal service provider.

Indiana

AGRICULTURAL LABOR CAMPS LAW

STATUTORY CITATION: Ind. Code §§ 16-41-26-1 - 16-41-26-14

RELATED REGULATIONS: 410 Ind. Admin. Code §§ 6-9-1 - 6-9-6

GENERAL SUMMARY: Article 41, Chapter 26 of the state public health laws prohibits operation of any agricultural labor camp in Indiana without a state-issued permit, and requires labor camp operators to comply with prescribed standards of construction, equipment and operation. An agricultural labor camp is defined as one or more buildings or structures, tents, trailers or vehicles established, operated, or used as living quarters for 5 or more adult seasonal or temporary workers engaged in agricultural activities, including related food processing.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No person, firm or association may operate an agricultural labor camp in Indiana without first obtaining a permit from the state to do so, and unless the permit is in full force and is kept posted in the camp to which it pertains. A labor camp must be inspected within the 60-day period immediately prior to occupancy, and a permit may not be issued without an inspection. In general, a permit is valid for one year from the date of issuance.

HOUSING STANDARDS — As a prerequisite to the issuance or renewal of a permit, a camp must meet detailed standards set by the state agency for the protection, safety and welfare of the residents of such facilities. Among the principal provisions with which each camp must comply are the following:

Housing Site — The site must be located and laid out so as to prevent health and safety hazards.

Water Supply — An adequate and convenient supply of water which meets state quality standards is required at all times, for cooking, drinking, bathing and laundry purposes. Common drinking cups are not permitted.

Waste Disposal — There must be adequate facilities for effective disposal of human waste. Where a public sewer system is available, the camp's waste disposal facilities must be connected to it.

Structures — Housing units must be structurally sound, be in sanitary condition, and offer effective protection against the elements. Living areas must comply with prescribed minimum floor space and ceiling height standards. Separate sleeping accommodations for each sex or each family are required. Ceilings in living areas must be at least 7 feet high.

Screening — All outside doors, windows and other openings must be properly screened, and screen doors must be self-closing.

Heating — Any time a camp is operated between August 31 and June 1, heating equipment capable of maintaining a temperature of at least 65 degrees F. in habitable rooms must be provided. Portable heaters other than those powered by electricity are forbidden, and any stoves or other heating devices that use combustible fuel must be safely installed and properly vented.

Electricity and Lighting — All housing sites must have electric service. Regulations require an adequate number of lighting fixtures and electrical outlets, safely wired and maintained, in each habitable room and common area.

Toilets — In general, there must be no less than one toilet for every 15 occupants, and all such facilities must be constructed, located and maintained so as to prevent any nuisance or public health hazard. Except in individual family units, separate toilet accommodations for men and women are required. Toilet facilities must be located within 200 feet of each living unit, but privies may be no closer than 50 feet from any living, cooking or eating area.

Bathing, Laundry, and Handwashing Facilities — Adequate numbers of bathing and handwashing facilities, supplied with hot and cold water under pressure, must be provided and located within 200 feet of each living unit. Occupants must also have access to similarly equipped laundry facilities, in prescribed minimum numbers.

Cooking and Eating Facilities — Camps must have safe, sanitary cooking and eating facilities. Either in individual living units or in a common area, there must be cook stoves, refrigeration, food storage and preparation space, adequate lighting and ventilation, and seating and eating arrangements which meet standards prescribed in the regulations.

Sleeping Facilities — A bed, cot or bunk, supplied with a clean mattress, must be provided for each occupant. Any bedding provided by the camp operator must be clean and sanitary.

Garbage and Other Refuse — Camp operators must provide covered, water-tight containers for the storage of garbage and other refuse adjacent to each shelter and service building. At least twice a week, or when containers are full, garbage must be collected and cans must be cleaned.

Safety and First Aid — Structures must be built and maintained in accordance with state and local fire and safety laws, and there must be exits in sufficient numbers and of proper design to permit alternate means of escape in case of fire. Camp operators are required to furnish fire extinguishing and first-aid equipment that meets specified standards, and occupants must have reasonable access to a telephone for emergency use. The telephone number of the nearest fire department and ambulance service must be posted near the telephone, along with instructions — in English and in the occupants' native language — for reporting emergencies. No flammable materials (other than those needed for current household use) may be stored in or around rooms used for living purposes, and agricultural pesticides and toxic chemicals may not be stored in the housing area.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Public Health Division, Indiana State Department of Health, Indianapolis, Indiana 46204 (317-233-7183). This agency is responsible for issuing agricultural labor camp permits and for conducting related inspections. Authorized representatives of the Department may enter and inspect any labor camp at any reasonable hour and may investigate whatever facts, conditions and practices are necessary to assure compliance with the law and its associated regulations. Upon confirming a violation, the Department may serve the camp operator with an order requiring compliance and may seek injunctive relief in state circuit court if corrective action is not taken within the timeframe specified in the order. Failure to observe the labor camp standards or any other provision of this law may also result in revocation of the camp permit and criminal prosecution of the camp operator.

Iowa

MIGRATORY LABOR CAMP LAW

STATUTORY CITATION: Iowa Code §§ 138.1 - 138.19

RELATED REGULATIONS: Iowa Admin. Code 641.81.1 - 641.81.6

GENERAL SUMMARY: Chapter 138 of the Iowa statutes requires a state-issued permit as a precondition for the operation of certain migrant labor camps in the state. The migratory labor camp law prescribes detailed site, construction and facilities standards with which such housing must comply to be eligible for a permit, and imposes other responsibilities and restrictions on the housing operator for the protection of the occupants.

SPECIFIC TERMS AND CONDITIONS

COVERAGE CONDITIONS — A migrant labor camp is defined as one or more buildings, structures, shelters, tents, trailers or vehicles established, operated or maintained as living quarters for 7 or more migrant farmworkers (including the spouse and children of such workers). Included within this definition is any combination of separate living quarters which together house 7 or more migrant workers, all of whom work at any time for the same employer.

PERMITS — No one may establish, operate or maintain a migrant labor camp without having obtained a permit from the state to do so, and unless the permit remains in full effect and is kept posted on the premises at all times during operation.

HOUSING STANDARDS — To be eligible for a permit, a migrant labor camp must meet detailed requirements covering the factors summarized below.

Site - Camps must be situated and maintained so as to prevent health, fire and related hazards.

Shelters — There must be at least 50 square feet per occupant for sleeping purposes in family units and dormitories, and at least 40 square feet per occupant in sleeping rooms equipped with bunk beds. There must be 60 square feet per occupant in rooms where people cook, live, and sleep.

Water Supply — An adequate and convenient water supply must be provided for drinking, cooking, bathing, and laundry purposes. Private water sources must be tested prior to operation to ensure the water is safe with respect to bacteria and chemicals.

Sewage Disposal — Sewer lines and floor drains from all units must be connected to the public sewer system, if available, or to a sanitary waste disposal system approved by the state enforcement agency.

Toilet Facilities — Sanitary, well-ventilated toilet facilities adequate for the capacity of the camp must be provided. Where facilities are shared by persons not of the same immediate family, there must be separate toilet rooms for men and women, and facilities in a minimum ratio of one unit for every 15 persons of each sex.

Handwashing, Bathing, and Laundry Facilities — Hot and cold running water and associated equipment and fixtures must be provided for bathing and laundry purposes. There must be at least one handwashing basin in each immediate-family shelter or for every 15 individuals (or fraction thereof) in shared facilities, one showerhead for every 15 occupants, one laundry tray or tub for every 25 occupants, and one slop sink in each building used for laundry, handwashing or bathing. Every shower room or service building used during seasons requiring artificial heating must be furnished with equipment capable of maintaining a room temperature of 70 degrees F.

Lighting — Electric service is mandatory in all camps, and safe, numerically adequate electrical outlets and lighting fixtures must be provided.

Cooking and Eating Accommodations — There must be adequate gas or electric stoves for cooking at each camp, either for individual family use or for congregate meals. Likewise, necessary allied facilities such as refrigeration, counters and food storage shelves must also be made available wherever food is prepared. Tables and seating for food service are required.

Refuse Disposal — At least one 20-gallon fly-tight container must be made available for every 15 occupants for storage of garbage. Camp operators must arrange for refuse collection at least twice a week.

Safety and Fire Prevention — First-aid and fire extinguishing equipment must be provided and kept in functioning condition and accessible to camp residents at all times. Agricultural pesticides, toxic chemicals and flammable or volatile liquids (other than those needed for current household use) must be stored away from living areas.

Insect and Rodent Control — Safe and effective measures must be taken to control rats, mice, flies, mosquitoes and other pests within camp premises.

COMMUNICABLE DISEASES — The camp operator must report immediately to the local board of health the name and address of any camp resident known to have or suspected of having a non-minor communicable disease. Similarly, any case of suspected food poisoning or any unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting or jaundice is a prominent symptom must be reported to the local health authority and to the state health commissioner.

RENTAL CHARGES — No camp operator or any other person may make a rental charge or deduction from a worker's wages for providing any migrant labor housing or related housing facilities unless the worker is advised thereof prior to contracting for the employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Labor Camp Program, Bureau of Environmental Health Services, Iowa Department of Public Health, Des Moines, Iowa 50319 (515-281-8561). This agency is responsible for inspecting each housing facility for which a permit application is received, and for issuing a permit to each camp found to comply with the substantive standards outlined above. Agency personnel may also periodically inspect migrant housing facilities on their own initiative or in response to complaints. If a permit-holder fails within a specified timeframe to correct all conditions found out of compliance, the Department may suspend or revoke the permit. Operating a migrant labor camp without a permit, as well as any other violation of the migratory labor camp law, is classed as a simple misdemeanor.

Maine

→ AGRICULTURAL LABOR HOUSING STANDARDS LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 585 - 589

GENERAL SUMMARY: Chapter 6, Subchapter 3 of the state labor statutes requires the state labor department to adopt rules protecting the health, safety and welfare of agricultural workers and their families who occupy housing provided or controlled by their farm employers. Such rules are to apply only to agricultural employers who provide housing to more than 5 employees, and apply only to housing not already subject to standards promulgated under the federal Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S. — Housing — Farm Labor Housing Standards).

SPECIFIC TERMS AND CONDITIONS: The state labor department has not published any explicit rules using the above-mentioned authority, but the law specifies that the standards applicable to employer-provided farmworker housing in Maine must be identical to the Migrant and Seasonal Agricultural Worker Protection Act housing habitability regulations (U.S. — Housing — Farm Labor Housing Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900). The Bureau has authority to inspect housing facilities subject to this law, and may enter any such housing at any reasonable time to determine compliance with the applicable rules. However, if the facility is occupied, the Bureau must have permission from one or more of the occupants or have a valid search warrant. Unoccupied facilities may be entered and inspected only with permission from the owner or with a valid warrant. Violations of the housing standards are punishable by a civil fine of up to \$1,000 per violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative complaint, a worker aggrieved by a violation of these provisions may take legal action against the owner of the housing facility directly, using a private attorney or a public legal service provider.

Massachusetts

PUBLIC HEALTH LAWS (FARM LABOR CAMPS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, §§ 127A and 128G

RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: Chapter 111 of the state statutes includes provisions authorizing the adoption of regulations governing the health and sanitation of farm labor camps, and requiring inspection of all such facilities once a year. As administratively defined, in short, a farm labor camp is any building, vehicle or other structure which contains sleeping facilities provided in connection with farm employment, and which is occupied or intended for occupancy by 2 or more farmworkers or members of their families.

SPECIFIC TERMS AND CONDITIONS

INSPECTION AND CERTIFICATION — All farm labor camps must be inspected annually by the state enforcement agency or the local board of health. If, upon inspection, a camp meets the substantive standards outlined below, the state agency will issue a certificate of occupancy, which must be posted at the camp before the facility may be occupied in any year.

MINIMUM HOUSING STANDARDS — The state sanitary code prescribes the specific standards with which a farm labor camp must conform in order to qualify for a certificate of occupancy. The following is a summary of key provisions of the current standards:

Structures — Each camp building must be structurally safe, adequate in size for its use, easy to keep clean, and water-tight.

Lighting and Electrical Facilities — There must be adequate natural light in all living areas. Except where electricity is not available within 1,000 feet of the camp, living areas must be equipped with prescribed numbers of electric light fixtures and wall outlets. The camp operator is required to supply light bulbs for the required fixtures.

Sleeping Facilities — The camp operator must furnish a separate bed, cot or bunk for each camp occupant (or double beds for married couples) and must provide at least one clean mattress, one pillow, one pillow case, one blanket, one towel, and 2 sheets for each person. Beds must be maintained in good condition, and bedding must be kept clean and sanitary. There must be at least 50 square feet of floor space for each occupant over 2 years of age in each sleeping room.

Exits — Buildings used for human habitation are required to have at least 2 unobstructed exits on each floor where there are sleeping or eating facilities.

Cooking and Eating Facilities — Cooking and eating space which complies with prescribed standards of size and construction must be provided when camp occupants are permitted or required to cook in individual units, or to cook and eat in congregate facilities. Functioning stoves and refrigeration, adequate food storage and preparation space, cooking and eating utensils, suitable mealtime seating arrangements, and adequate sinks with hot and cold running water under pressure are required.

Screening — All doors, windows and other openings in exterior walls of habitable buildings must be properly screened, and screen doors must be self-closing.

Insect and Rodent Control — The camp operator is required to take steps to prevent entry and multiplication of flies, roaches, rodents and other pests in the camp area.

Water Supply — Water from a state-approved or public water supply must be made available at each camp, in minimum prescribed quantities and through plumbing fixtures which meet prescribed specifications. Common drinking utensils are prohibited.

Bathing Facilities — The camp must be equipped with at least one showerhead or bathtub for the first 12 occupants, and one such unit for every 15 thereafter. Handwashing facilities, in a minimum ratio of one wash basin for every 12 residents, must be supplied with soap. Except in family units, there must be separate bathing areas for males and females. The use of common towels is not permitted.

Laundry Facilities — There must be at least one laundry tub or washing machine for every 20 camp occupants (one for every 25, if only men are housed), along with adequate clothes-drying facilities.

Toilets — Clean, sanitary toilet facilities must be provided in a minimum ratio of one unit for each 10 occupants. Other than those in family quarters, toilet facilities for each sex must be separated and clearly marked. Toilets must be located within 200 feet of the door of the sleeping room of the occupants who are expected to use them, but no privy may be located any closer than 100 feet of a sleeping, cooking or eating room. The camp operator is responsible for supplying toilet paper.

Sewage Disposal — All drainage systems must be connected to a public sewer or an approved alternative means of subsurface disposal.

Storage and Disposal of Refuse — Water-tight, fly-proof trash and garbage receptacles must be provided by the operator. Refuse containers must be disposed of by the operator no less often than twice a week.

Heating — To the extent that the camp is occupied at any time from September 15 through the following May 15, living areas must be equipped with heating facilities capable of maintaining a temperature of at least 68 degrees F. Heaters using combustible fuel must be properly vented, and all heaters must be safely installed.

Safety — Camps must be built and maintained in accordance with state and local fire and safety laws. The camp operator must provide a standard 24-unit first-aid kit and see that it is kept stocked and accessible to camp occupants.

Hazardous Materials — Agricultural pesticides and toxic chemicals may not be stored in the housing area, and flammable liquids or materials (other than those needed for current household use) may not be stored in or adjacent to occupied rooms.

COMPLAINTS — Any occupant of a farm labor camp or other interested party who has knowledge of a violation of the standards applicable to such facilities may file a written complaint with the state agency or the local board of health. The state agency is required to investigate each such complaint within 30 days after filing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757). The Department is responsible for inspecting farm labor camps in the state and issuing occupancy certificates to those found in compliance with the labor camp standards. The agency must also respond to complaints regarding such facilities and is authorized to revoke the certificate of any camp determined on inspection to have violated the state sanitary code. The Department may petition the superior court to restrain and enjoin continued violations. Violators are subject to a criminal fine of up to \$500 per day.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state sanitation code, including the farm labor camp provisions, may be enforced by local boards of health.

Michigan

■ PUBLIC HEALTH CODE (AGRICULTURAL LABOR CAMPS)

STATUTORY CITATION: Mich. Comp. Laws §§ 333.12401 – 333.12434

RELATED REGULATIONS: Mich. Admin. Code R. 325.3601 – 325.3699

GENERAL SUMMARY: The Public Health Code includes provisions covering the licensing and operation of agricultural labor camps in Michigan.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may operate an agricultural labor camp, or allow such a facility to be occupied, without a valid license, posted conspicuously on the premises to which it applies. An agricultural labor camp is defined as a tract of land and all buildings, vehicles, tents and other structures pertaining thereto, any part of which is established or used as living quarters for 5 or more migratory laborers engaged in agricultural activities, including related food processing.

APPLICATION AND INSPECTION — An application for a license to operate an agricultural labor camp must be submitted at least 30 days prior to occupancy. A license will generally be issued if, after investigation and a pre-occupancy inspection, the facility is found to conform to the minimum standards outlined below.

MINIMUM STANDARDS — The state enforcement agency has adopted detailed rules for the protection of the health, safety and welfare of agricultural labor camp residents. A few of the major requirements are highlighted here:

Housing Site — The site must be well-drained and not in proximity to offensive odors, flies, noise, traffic, and other health and safety hazards.

Water Supply — An adequate and convenient supply of water which meets state quality standards must be provided, either in each shelter or through a cold water outlet within 50 feet of each shelter. Common drinking cups are not permitted.

Construction, Space and Sleeping Accommodations — Shelters must be structurally sound, be in sanitary condition, and offer effective protection against the elements. Living areas must comply with prescribed minimum floor space and ceiling height standards. Separate sleeping accommodations for each sex or each family are required. A bed, cot or bunk, supplied with a clean mattress, must be provided for each occupant. Any bedding provided by the camp operator must be clean and sanitary.

Fire Safety and First Aid — Living and sleeping areas above a second floor are not allowed. Sleeping rooms must have at least 2 remotely separated doors or other means of escape. Fire extinguishers must be provided and located not more than 100 feet from each shelter. There must be a functioning smoke detector at prescribed locations in each shelter. No flammable materials (other than those needed for current household use) may be stored in or around rooms used for living purposes, and agricultural pesticides and toxic chemicals may not be stored in the housing area.

Ventilation, Lighting and Electricity — Each shelter must have adequate ventilation and natural lighting. Outside openings that are used for ventilation must be properly screened, and screen doors must be self-closing. All housing sites must have electric service that meets the national electrical code.

Heating — A shelter that is occupied after September 1 and before May 31 must be provided with properly installed, functioning heating equipment capable of maintaining a temperature of at least 65 degrees F. Portable heaters other than those powered by electricity are forbidden, and any stoves or other heating devices that use combustible fuel must be safely installed and properly vented.

Cooking, Eating and Refrigeration Facilities — Camps must have safe, sanitary cooking and eating facilities. In individual living units and in common living areas, there must be cook stoves, refrigeration, food storage and preparation space, adequate lighting and ventilation, and seating and eating arrangements that meet standards prescribed in the regulations.

Bathing, Handwashing and Laundry Facilities — Adequate bathing and handwashing facilities, supplied with hot and cold water under pressure, must be provided in prescribed minimum numbers and located within 200 feet of each living unit. Occupants must also have access to prescribed laundry facilities, supplied with hot and cold water.

Toilet Facilities — In general, there must be no less than one toilet for every 15 occupants, and all such facilities must be constructed, located and maintained so as to prevent any nuisance or public health hazard. Except in individual family units, separate toilet accommodations for men and women are required. Toilet facilities must be located within 200 feet of each shelter, but privies may be no closer than 50 feet from any living, cooking or eating area.

Sewage, Garbage and Refuse Disposal — Sewage must be discharged into a public sewer system, where available, or into a sewage disposal system approved by state or local authorities. Camp operators must provide covered, fly-proof containers for the storage of garbage and other refuse, and refuse must be collected at least once a week or more often if necessary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Stewardship Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5621). The Department is responsible for inspecting agricultural housing facilities in the state, issuing licenses to those that meet minimum standards, and monitoring continued compliance with those standards. Anyone may report a violation or suspected violation to the Department, which must investigate the complaint. The Department is authorized to suspend or revoke the camp operator's license if a violation is confirmed. The statute also makes operating a camp without a license or in violation of the Department's rules a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state agency may utilize the services of local health departments to conduct pre-licensing camp inspections and investigations of complaints or violations.

Minnesota

O DEPARTMENT OF HEALTH GENERAL LAWS (MIGRANT LABOR CAMPS)

STATUTORY CITATION: Minn. Stat. § 144.12

GENERAL SUMMARY: The statutory provisions governing the general operation of the Minnesota Department of Health grants the state health commissioner explicit authority to adopt rules for the construction, equipment and maintenance of migrant labor camps, and to require the licensing of such facilities.

SPECIFIC TERMS AND CONDITIONS: The state health department regulations that formerly contained licensing and inspection requirements and related housing standards applicable to migrant labor camps in Minnesota were repealed in 2005, as "out-of-date and in conflict with other state and federal laws."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

SEASONAL FARM LABOR ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:9A-1 - 34:9A-36

GENERAL SUMMARY: The Seasonal Farm Labor Act, in large part, regulates the construction, maintenance and operation of farm labor camps in New Jersey, briefly defined as one or more buildings, structures, tents or vehicles used as living quarters by migrant, seasonal or temporary workers in connection with any work or workplace.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATE OF COMPLIANCE — No farm labor camp may be maintained or occupied without a certificate of compliance issued by the state. The owner or operator of a camp must generally apply for a certificate no later than 60 days prior to its opening in any calendar year, and the state enforcement agency has 45 days from receipt of the application in which to conduct an inspection of the facility. If no inspection has been made within that timeframe, the camp may be opened but is subject to closure if subsequent inspection discloses substantial non-compliance with applicable state standards, outlined below. Likewise, whenever the state agency finds that a camp for which a certificate has been issued no longer complies with such standards, the certificate may be revoked.

CAMP STANDARDS — The Act prescribes specific requirements which farm labor camps must meet to qualify for occupancy, key elements of which are summarized as follows:

Sleeping Facilities — Sleeping areas must be clean and in reasonably good structural condition, and must afford occupants adequate protection against fire hazards and shelter against the elements. Camps must be furnished with beds or bunks made of sanitary materials and arranged with adequate vertical clearance and space in between. Sleeping areas must contain sufficient air space and partitions to ensure an adequate supply of fresh air and reasonable privacy for each occupant.

Food Preparation Facilities — Every camp must be provided with stoves or similar cooking equipment, and every room where food is prepared or served must be kept clean and properly screened. Cookware and food service implements must be clean, unbroken and sanitary.

Water — Subject to state-granted variances, there must be an adequate supply of safe and sanitary potable water at each camp certified for occupancy.

Bathing Facilities — Subject to variances and exceptions, convenient and suitable bathing facilities must be provided at every camp and kept clean and sanitary.

Toilet Facilities — Each camp must have privies or other toilet facilities, and a connecting sewage disposal system, which meet prescribed specifications. Toilet rooms or privies must be ventilated, fly-proof and maintained so as to prevent pollution of water supplies and other health hazards.

Garbage and Waste — Camp operators must furnish covered receptacles for the disposal of garbage and other refuse. Trash containers must be emptied daily and contents disposed of in accordance with state regulations.

SPECIAL NOTES OR ADVISORIES

PREEMPTION OF JURISDICTION — In a 1978 case (Harrington v. Department of Labor and Industry, 163 N.J.Super. 595, 395 A.2d 533), a state court found that the Seasonal Farm Labor Act, while constitutional, has been rendered partially inoperative through preemption by the federal Occupational Safety and Health Act (see entry, U.S. — Housing — General Employee Housing Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). It is the Department's duty under the Act to inspect each camp for which an application for certification of compliance is received, and to conduct follow-up inspections of such facilities randomly or in response to specific complaints. Any camp which does not conform to the Act or the associated regulations will be deemed a public nuisance, and if the deficiencies are not corrected within 5 days, the Department may bring suit to abate it. In addition to closure of the facility involved, the owner or operator of a labor camp found in violation of the Act is subject to criminal prosecution and, upon conviction, to fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

→ PUBLIC HEALTH LAW (LABOR CAMPS)

STATUTORY CITATION: N.Y. Public Health Law § 225(5)(m) and § 1330

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 10, Part 15

GENERAL SUMMARY: A provision in Article 2 of the Public Health Law authorizes the public health council to establish a state sanitary code to govern, among other concerns, farm and food processing labor camps occupied by 5 or more migrant workers. Such facilities may be operated only upon issuance of a state permit evidencing compliance with regulatory standards on sanitation, lighting and ventilation, fire hazard protections, maintenance and other camp specifications. A provision in Article 13, in turn, grants state and local health authorities the power to investigate and enjoin violations of the sanitary code at or in relation to labor camps.

SPECIFIC TERMS AND CONDITIONS: The following standards applicable to farm labor housing have been adopted and are currently in effect:

LICENSING — Without first obtaining a permit to do so, no individual, firm or group may use any property to house 5 or more persons (or allow any property under its control to be occupied by 5 or more persons), one or more of whom are employed as laborers in farm activities. Application for a migrant labor camp permit must be made annually, at least 30 days before the camp's first day of operation or occupancy.

MINIMUM STANDARDS — A migrant labor camp permit may not be issued unless the housing facility meets state regulatory requirements, key provisions of which are outlined below.

Location — The camp must be located at a site with adequate surface drainage and satisfactory sewage disposal facilities.

Structures — Buildings must be structurally safe, adequate in size, and maintained in sound condition.

Sleeping Quarters — There must be at least 50 square feet of floor area for each occupant over 2 years of age. A bed, cot or bunk, complete with springs and mattresses, must be provided for each occupant. Except in individual family units, separate sleeping areas are required for each sex.

Light and Ventilation — Adequate light and ventilation, in accordance with regulatory specifications, must be provided in all sleeping quarters, kitchens, dining rooms, and toilet rooms.

Heating — All rooms occupied between September 1 and June 1 must have properly vented heating facilities, capable of maintaining a minimum temperature of 68 degrees F. in each room (70 degrees, in housing constructed after May 1, 1997). The use of portable heaters other than those powered by electricity is prohibited.

Fire Safety — Sleeping and eating areas must have multiple exits, as specified in the regulations. There must be fire extinguishing equipment in a readily accessible place not more than 100 feet from each housing unit.

Water Supply — Every migrant labor camp must be served by a water supply that conforms with state sanitary standards. Water sources and distribution systems must be designed, constructed and maintained to provide protection against contamination or pollution. Water distribution systems must provide minimum pressure of 20 pounds per square inch.

Toilet Facilities — Convenient, sanitary toilet facilities are required at each camp, with no less than one unit for every 15 camp occupants. Toilets must be within a 200-foot walking distance of each sleeping room, but privies are not permitted any closer than 50 feet to any sleeping room, eating room or kitchen. New housing constructed after October 1, 1999, must be equipped with flush toilets only, and all privies must be replaced with flush toilets on or before that date.

Cooking and Eating Facilities — Camp owners and operators are required to furnish properly installed cook stoves in all individual units (at least 2 burners per unit) and congregate meal preparation areas (a minimum of 2 burners for every 5 occupants). Portable stoves other than those powered by electricity are prohibited. There must be adequate refrigeration capable of maintaining a temperature of not more than 45 degrees F., adequate space for the storage and preparation of food, and sufficient tables and seating for meal service.

Storage and Collection of Garbage — Adequate and sanitary facilities must be maintained for the storage and disposal of garbage and other refuse.

Bathing Facilities — Except in individual units, bathing facilities for men and women must be separate. There must be at least one showerhead and one wash basin for every 15 camp occupants; at facilities constructed after May 1, 1997, the showerhead ratio increases to 1 for every 10 occupants, and for wash basins increases to 1 for every 6. Such facilities must be supplied with hot and cold running water.

Laundry Facilities — Camp residents must be provided with no less than one wash tub, laundry tray or sink for every 25 persons, or mechanical washers in the ratio of one for every 50. Where machines are provided, there must also be one or more laundry trays or wash tubs for every 100 occupants. Facilities for drying clothes must also be provided.

MEDICAL FACILITIES — The camp operator must make arrangements for access to adequate medical care at or readily available to the camp. A functional first-aid kit must be kept in an accessible location on the grounds.

HAZARDOUS MATERIALS — Except for those needed for current household use, no flammable or volatile materials may be stored in or adjacent to rooms used for living purposes. Agricultural pesticides and toxic chemicals may not be stored in the housing area.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Community Environmental Health and Food Protection, New York State
Department of Health, Albany, New York 12237 (518-402-7600). District offices of the Department (or county health departments, depending on the camps' location) are responsible for issuing operating permits for labor camps found to meet the standards outlined above, and for monitoring continued compliance by camp operators. Anyone with knowledge of a possible violation of the state labor camp regulations may file a complaint with the Department, and if an investigation or inspection confirms an infraction and the situation is not corrected within 2 days of written notice, the Department may seek an injunction in state court to compel compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – County health commissioners and local health boards may generally exercise the same authority as the State Department of Health in investigating any labor camp deemed a public nuisance or regarded as a potential threat to the health of its occupants. In performing such functions, local health authorities must apply the same statutory and regulatory standards enforced by the state agency.

North Carolina

MIGRANT HOUSING ACT OF NORTH CAROLINA

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-222 - 95-229.4

RELATED REGULATIONS: 13 N.C. Admin. Code 16.0101 - .0502

GENERAL SUMMARY: The Migrant Housing Act adopts certain federal housing standards and makes them applicable to virtually all migrant labor housing facilities in North Carolina. The law requires a state-issued certificate before such facilities may be occupied, and authorizes state inspections for the purpose of determining compliance.

SPECIFIC TERMS AND CONDITIONS

STANDARDS — With certain variations, the state has adopted the temporary labor camp standards established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Housing — General Employee Housing Standards). In lieu of the OSHA provisions, however, migrant housing is subject to existing state rules governing (1) water quality and water sanitation, (2) collection, treatment and disposal of sewage, (3) heating systems, (4) fire safety, (5) food service, preparation and storage, and (6) bedding.

PRE-OCCUPANCY INSPECTIONS — Every person who owns or controls housing used as living quarters in North Carolina for workers required to be absent overnight from their permanent place of residence must request an inspection of the housing at least 45 days before it is occupied. In general, the facility may be occupied only if it has been certified by the state labor department or the U.S. Department of Labor to be in compliance with the standards adopted under this law. If the housing is fully compliant for two consecutive years, the owner or operator of the facility has the right to conduct its own pre-occupancy inspection, but the local health department must still inspect the water and sewage systems for compliance. In the year following a self-inspection, the state labor department must again conduct the pre-occupancy inspection.

POST-OCCUPANCY INSPECTIONS — After a migrant housing facility is occupied, inspections are normally allowable only if (1) workers and their families arrived before the anticipated occupancy date and were allowed to enter on a provisional basis, (2) the housing was subject to pre-occupancy inspection and found not to be in 100 percent compliance, (3) the operator has been assessed a civil penalty by the state labor department for violations during the previous year, or (4) a credible report of an alleged safety or health violation or hazard has been received from a government official or an individual with first-hand knowledge of the violation or hazard.

HOUSING DEEMED UNINHABITABLE — In the case of a migrant housing facility found to be uninhabitable but not reasonably expected to cause death or serious physical harm, any occupants thereof may be allowed to remain for a reasonable period, not to exceed 14 days, while the housing owner or operator attempts to locate alternative lodging for them. Any alternative housing must be provided at or below the cost the occupants were paying for the uninhabitable facility.

Occupied housing deemed uninhabitable and likely to cause death or serious injury cannot continue to be occupied, and the owner or operator must provide alternative housing at equal or lesser cost immediately.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267). This agency has primary responsibility for inspecting migrant housing facilities under the Act, and for issuing certifications authorizing occupancy. The Department also has authority to investigate and respond to reports of alleged violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – North Carolina Department of Environmental Quality, Raleigh, North Carolina 27603 (877-623-6748). This agency is explicitly responsible for enforcing the water and sanitation regulations applicable to migrant housing, through inspections conducted by the local health departments.

Ohio

AGRICULTURAL LABOR CAMP LAW

STATUTORY CITATION: Ohio Rev. Code §§ 3733.41 - 3733.99

RELATED REGULATIONS: Ohio Admin. Code 3701-33-01 - 3701-33-13

GENERAL SUMMARY: Chapter 3733 of the state statutes contains provisions regulating the operation of agricultural labor camps, defined in brief as one or more structures, trailers, tents or vehicles established or used as temporary living quarters for 2 or more families or 5 or more persons engaged in agriculture or related food processing.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND INSPECTION — No agricultural labor camp may be operated in Ohio without a license issued by the state. Anyone who intends to operate such a facility during the year generally must apply for a license before April 15 of that year. A license will not be issued unless tests indicate that the water supply meets prescribed standards, nor will a license be granted if any violations exist with respect to sanitation, drainage or habitability of housing units. In addition to inspection prior to occupancy, the state enforcement agency may make whatever other inspections it considers necessary to enforce these provisions.

LABOR CAMP STANDARDS — The public health director has adopted minimum standards of habitability which must be met before an agricultural labor camp license may be issued. Among the minimum requirements with which every camp must comply are those described briefly below.

Water Supply — The camp's water supply must be from a public water system that meets state requirements. By 2022, all camps must provide water under pressure to all housing units.

Sewage Disposal — Sewage must be discharged into a sanitary sewerage system approved by the state environmental protection agency or the local health department. Sewage disposal systems must be maintained so as not to create a nuisance or health hazard, or pollute water or waterways.

Housing Site and Units — The camp must be located on an adequately drained site. Any building in the camp that is not structurally sound must be repaired, sealed shut, demolished or removed. Dwellings must be soundly constructed and maintained in good repair and sanitary condition. Housing must comply with prescribed minimum floor space and ceiling height requirements.

Ventilation —Each habitable room must have at least two windows (or one window and a skylight) that open to the outside. Windows must meet prescribed size requirements in relation to floor space. All outside openings must be protected with tight-fitting screens or screen doors, in good repair.

Cooking Space — Cooking spaces must include mechanical refrigeration for storage of food at a temperature of not more than 41 degrees F., and a table and chairs (or equivalent eating arrangements). When cooking space is provided for 10 or fewer occupants, there must also be a stove with at least 2 burners, adequate food storage shelves, and a counter at least 5 square feet in size for food preparation. Fuel storage tanks and fuel lines connected to cooking or heating equipment must be properly installed and kept in safe condition.

Sleeping Facilities — A bed or bunk with a clean mattress must be provided for each occupant, in accordance with certain specifications and restrictions.

Toilet Facilities — Toilet facilities must be located in each dwelling unit, or within 200 feet thereof, and no toilet may be located in a room used for other than toilet or hygiene purposes. Except in individual family units, separate toilet facilities for each sex are required. Toilet facilities must be adequately lighted and ventilated and maintained in a sanitary condition. In general, there must be not less than one toilet for every 15 camp occupants.

Bathing Facilities — Wash basins and showers or tubs, in prescribed minimum numbers and supplied with hot and cold running water, must be provided for the use of all occupants and must meet detailed standards of construction. There must generally be at least one showerhead for every 10 camp occupants, and one wash basin for every 6 occupants. Except in individual family units, separate shower rooms for men and women must be provided and clearly marked as such.

Laundry Facilities — Laundry tubs, with hot and cold running water, must be provided in a ratio of one tub for every 25 occupants. Washing machines may be provided in lieu of tubs, in a ratio of one machine for every 50 occupants, but there must be at least one tub as well. Facilities for drying clothes are also required.

Heating — All housing units and service rooms used before June 1 or after August 31 in any year must be furnished with properly installed heating equipment capable of maintaining a temperature of at least 70 degrees F. Any heating equipment that utilizes combustible fuel must be properly vented and located, as prescribed in the standards. Electric portable heaters are allowable but must be equipped with automatic shut-off switches.

Electricity and Lighting — All camp sites must be provided with electric service. There must be specified numbers of light fixtures and wall outlets.

Trash Disposal — Adjacent to each housing unit, there must be a covered container for the storage of household garbage and trash, or approved bulk-type containers situated within 100 feet of the housing for common use. Arrangements must be made for the collection of refuse at least once a week, or more often if necessary.

Pest Control — The camp owner or operator must take effective, approved measures to prevent infestation of the camp by insects, rodents or other pests.

Safety and First Aid — Living areas must be designed with alternate means of escape in case of fire. Each housing unit must be equipped with at least one functioning wall- or ceiling-mounted smoke alarm, and there must be a prescribed fire extinguisher in good working order not more than 75 feet from each dwelling. Likewise, properly equipped first-aid facilities must be readily available for use at all times. Addresses and telephone numbers of emergency medical care providers must be posted at the camp at the same location where the camp license is displayed. No flammable materials except those needed for current household use may be stored near a habitable room, and agricultural pesticides and toxic chemicals may not be stored or mixed in the camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Labor Camp Program, Bureau of Environmental Health, Ohio Department of Health, Columbus, Ohio 43215 (614-644-7455). The Department is the designated licensing agency under the agricultural labor camp law and is likewise responsible for camp inspections. In connection with a license application, in response to a specific complaint, or on its own initiative, representatives of the Department may have access to any labor camp subject to the law, upon presentation of proper identification to the camp operator, for the purpose of making an inspection. The license of any facility found in violation of the state standards may be denied, suspended or revoked, but unless an immediate public health hazard exists, the operator will normally be given a reasonable opportunity to make corrections before action against the license is taken. Violators of the labor camp law are subject to prosecution by the state attorney general or local prosecuting attorneys on misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Department of Health is empowered to enter into an agreement with qualified local boards of health to enforce the agricultural labor camp standards, but authority to license camps and to suspend or revoke camp licenses cannot be delegated.

Oregon

OREGON SAFE EMPLOYMENT ACT (AGRICULTURAL LABOR HOUSING)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-1120

GENERAL SUMMARY: The Oregon Safe Employment Act confers broad authority on the state consumer and business services director to set standards to assure every covered employee a safe and healthful place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the Act's rulemaking authority, regulations have been adopted to assure the health and safety of occupants of housing which is rented, leased or provided free of charge to farmworkers by an agricultural employer, farm labor contractor, or a housing operator in connection with the workers' farm employment. The following is a summary of major provisions of the agricultural labor housing regulations.

REGISTRATION REQUIREMENTS — All labor housing facilities must be registered with the state at least 45 days before opening each year.

HOUSING SITE — The site of each labor camp must be of sufficient size to prevent overcrowding of structures, and the site must be clear of waste, brush and other potential health hazards. Any pesticides or other toxic materials must be stored in a safe place accessible only to authorized individuals. All housing sites must be provided with electrical service.

WATER SUPPLY — An ample supply of safe and potable water must be provided in every housing facility for drinking, bathing and household purposes. The water supply must meet state standards for purity and arrive at all outlets at a pressure of at least 15 psi. Portable water systems are allowable under certain conditions.

TOILET, BATHING, AND LAUNDRY FACILITIES — In general, there must be at least one wash basin or sink for every 6 occupants, one showerhead for every 10 occupants, and one toilet for every 15 occupants; portable toilets and privies are allowable under certain conditions. Laundry and drying equipment, in minimum prescribed numbers, must also be provided. All toilet, bathing and laundry facilities must be clean and sanitary and maintained in good operating condition. An adequate supply of hot and cold water under pressure must be available for handwashing, bathing and laundry facilities.

SEWAGE DISPOSAL AND PLUMBING — Plumbing facilities must be connected to a community sewer system, a septic tank or other acceptable sewage disposal system that conforms to state environmental quality standards and the state building code.

GARBAGE AND REFUSE — At least one container of not less than 20-gallon capacity for every 15 occupants must be provided for storage of garbage and trash. Containers must be water-tight and fly-proof. Trash must be removed from the camp at least once each week, or otherwise disposed of in accordance with state environmental quality standards. Burning of trash is prohibited.

LIVING AREAS — Living areas, with minimum space of 100 square feet per occupant, must be structurally sound, weather-proof, and provided with heating equipment capable of maintaining a temperature of at least 68 degrees F., safely installed and properly vented. Portable heaters must operate by electricity only and have automatic shutoff devices.

A bed, bunk or cot must be provided for each occupant, and each bed or bunk must have a clean mattress or pad in good repair and free of insects. Sleeping areas must conform to prescribed minimum space requirements.

There must be windows or skylights to provide natural lighting, with a total area equal to at least 10 percent of the required floor area. At least half the required window area must be openable to the outside.

FIRE PROTECTION — Each living area must have a working approved smoke detector, and there must be readily accessible fire extinguishing equipment not more than 50 feet from each housing unit. Living areas must have alternate means of escape in case of fire.

COOKING AND EATING FACILITIES — Central cooking and eating facilities must meet specified state requirements for food storage, food preparation and sanitation. In units where residents prepare and serve their own meals, there must be a working refrigerator, a working stove or hotplate, adequate food storage shelves and food preparation space, and a table and chairs or suitable alternative eating arrangements.

FIRST AID — The housing facility must have prescribed first-aid equipment on hand. The employer or housing operator must also develop an emergency medical plan and a communication plan to follow in case of serious injury or illness involving residents.

CLOSURE AND ALTERNATIVE HOUSING — In the event an authorized government authority declares a housing facility uninhabitable and orders it vacated, the operator of the facility must provide the occupants with replacement lodging for up to 7 consecutive days. The replacement housing must be approved in advance by Oregon OSHA and must be available at no charge to the displaced occupants.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Representatives of Oregon OSHA are authorized to enter and inspect agricultural housing facilities in the state, and to cite employers found in violation. Non-compliance with an applicable standard or an order by Oregon OSHA may result in assessment of a civil money penalty by the agency and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Labor Contracting Unit, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463). The Bureau is responsible for licensing farm labor contractors in Oregon, and for issuing special endorsements authorizing operation of farmworker camps (see next entry). This agency is also responsible for enforcing the anti-retaliation provision noted above (Civil Rights Division, 971-673-0764).

LABOR AND EMPLOYMENT LAWS (FARMWORKER CAMPS)

STATUTORY CITATION: Or. Rev. Stat. §§ 658.705 - 658.850

RELATED REGULATIONS: Or. Admin. R. 839-014-0020 - 839-014-0630

GENERAL SUMMARY: In part, Chapter 658 of the Oregon statutes regulates the activities of farm labor contractors in the state and includes provisions requiring, in general, that anyone who provides housing for workers recruited or employed in the production or harvesting of farm crops (1) obtain a state license as a farm labor contractor, and (2) obtain a special license endorsement to operate a farmworker camp.

SPECIFIC TERMS AND CONDITIONS

LABOR CONTRACTOR LICENSING — An operator of a farmworker camp must apply to the state Bureau of Labor and Industries for a farm labor contractor license (see entry, Oregon — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration).

FARMWORKER CAMP ENDORSEMENT — Once licensed, the prospective farmworker camp operator must apply to the Bureau for a license endorsement authorizing that activity. Among the requirements for receipt of a camp endorsement are these:

- Pay the annual license fee.
- (2) File proof of financial ability to cover liabilities incurred in connection with operation as a contractor and housing operator. This obligation may be met by purchasing a surety bond or posting a cash deposit of at least \$15,000.
- (3) Pass a written, closed-book examination to test the applicant's knowledge and proficiency to conduct and manage the business of a labor contractor, including lawful operation of a farmworker housing facility.

RECORDKEEPING — Farmworker camp operators are required to make and maintain for a period of 3 years records related to their housing activities. Among other information, the records must include the names and addresses of the residents of the camp, the dates of occupancy of each resident, records of any financial transactions between the operator and the residents, and records of any government-agency inspections of the camp and any citations issued.

POSTING — In an exterior area of the camp easily visible to occupants and visitors, the camp operator is required to keep conspicuously posted a notice disclosing the existence of the surety bond or deposit posted by the camp operator. The notice must indicate the amount of the bond or deposit, and note that it is conditioned on the operator's payment of all sums legally owed to any employees or camp occupants, and any damages resulting from fraud, misrepresentation or other unlawful act or omission on the endorsee's part.

ACCESS TO TELEPHONE — When employees occupy farmworker housing that is owned or controlled by the employer, the employer must ensure that the occupants have reasonable access to an operating telephone at all times for emergency use. For non-emergency private use by employees, the employer must provide employees occupying the housing with reasonable access to a telephone located within a 2-mile radius of the housing.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A farmworker camp operator may not discharge, evict or discriminate in any manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463). This agency administers the licensing of farm labor contractors in Oregon, including the issuance of farmworker camp operator endorsements. A person adversely affected by fraud, misrepresentation, or any other alleged violation of these provisions committed by a farmworker camp operator, may file a complaint against the camp operator and may have a claim against the operator's bond or deposit.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Affairs, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Oregon OSHA is responsible for enforcing the safety and sanitation standards applicable to agricultural housing facilities in Oregon, as outlined in the previous entry. Any occupant of a farmworker camp who has a question or complaint about the housing itself may contact this agency.

Pennsylvania

SEASONAL FARM LABOR ACT (SEASONAL FARM LABOR CAMPS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.301 - 1301.308

RELATED REGULATIONS: 7 Pa. Code Ch. 82

GENERAL SUMMARY: The Seasonal Farm Labor Act authorizes adoption of state regulations governing the operation of seasonal farm labor camps, defined briefly as living quarters (including any housing unit, motel, mobile home or other facility) maintained in connection with the work of seasonal farmworkers, or in connection with a place where work is being performed by such workers. As used here, the term "seasonal farmworker" refers largely to any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, or any person who lives in housing owned or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons.

SPECIFIC TERMS AND CONDITIONS

PERMITS — It is illegal for anyone who owns property or facilities to allow the occupancy, operation or use of such property or facilities as a seasonal farm labor camp without first obtaining a permit from the state to do so. Application for a permit must be made at least 60 days prior to occupancy. Permits are valid for one year from the beginning month of operation.

INSPECTION — The state enforcement agency will not issue or renew a permit until an inspection is completed and the agency finds that the camp meets or exceeds the standards applicable to such facilities, outlined below. The camp may also be inspected from time to time thereafter.

MINIMUM STANDARDS — To provide for safe, healthful and sanitary living conditions, the state agriculture department has adopted detailed standards with which seasonal farm labor camps must comply as a condition for occupancy and continued operation. A summary of key portions of those rules follows.

Housing Site — Each farm labor camp must be located on a site that is adequately drained and not likely to cause or become a threat to public health.

Construction — Structures must be soundly built and weatherproof. Screens are required on all exterior doors, windows and other outside openings.

Heating — If the camp is occupied before May 15 or after September 15 of any year, there must be space heating equipment capable of safely and adequately heating all habitable rooms, bathrooms and laundry rooms to 68 degrees F. Hot water must be supplied to all kitchens, sinks, showers, tubs and laundry fixtures.

Occupancy Limitations — There must be at least 100 square feet of floor space for each adult, and at least 50 square feet of space for each child under the age of 14, in units where occupants cook, live and sleep. In sleeping rooms shared by unrelated persons, the minimum floor space requirements are 50 square feet for adults and 25 square feet for children.

Sleeping Accommodations — Each occupant of the camp must be provided with a bed, bunk or cot, as well as a mattress and mattress cover, a pillow and pillow case, sheets and blankets. There must also be suitable storage facilities in the sleeping area.

Water Supply — The camp must have a sufficient supply of potable water to meet the needs of the occupants. Both the water itself and the water supply or distribution system must meet prescribed state standards. Hot and cold water under normal operating pressure must be available in kitchen and bathroom facilities.

Toilet Facilities — Sanitary toilet facilities, separated by sex and in prescribed minimum numbers, must be provided, except where the camp is composed entirely of family-type units, each with its own toilet facilities. In any case, toilets must be located within 200 feet of the door of each sleeping room, and no privy may be any closer than 100 feet to any sleeping room, kitchen or dining area. All toilet facilities must be adequately ventilated and maintained in proper operating condition.

Sewage Disposal — The camp's sewage disposal system must comply with specified standards and must be approved by state or local authorities.

Bathing Facilities — There must be at least one showerhead for every 10 camp residents, or one bathtub for every 6, as well as one wash basin per family unit or for every 6 occupants.

Laundry Facilities — The camp must provide at least one washing machine or one double laundry tray or 2 wash tubs for every 30 occupants. As an alternative to furnishing laundry equipment, the camp operator must provide residents with transportation at least once a week to a nearby laundromat.

Lighting and Electrical Facilities — Electricity is required at the camp, along with lighting fixtures and electrical outlets in prescribed minimum numbers.

Storage and Collection of Refuse — The camp operator is required to provide a sufficient number of leakproof garbage or trash containers. Trash must be collected at least once a week or whenever containers are full.

Cooking and Eating Facilities — Private kitchens must be equipped with a stove or hotplate, mechanical refrigeration capable of maintaining a temperature not more than 45 degrees F., adequate space for food storage and preparation, a table and chairs or equivalent accommodations, a sink with hot and cold running water under pressure, and adequate lighting and ventilation. Congregate cooking and eating areas must be comparably furnished.

Pest Control — The camp must have proper equipment, and the camp operator must take prescribed measures, to prevent or eliminate infestation of the premises by rodents, insects and other pests.

First Aid and Safety — Agricultural pesticides and toxic chemicals may not be stored in the housing area. To treat minor injuries and illness, there must be one first-aid kit, supplied as specified in the regulations, for every 50 camp occupants. Likewise, to respond to fire emergencies, there must be prescribed fire extinguishing equipment in kitchens and sleeping areas. Most living areas must be designed with multiple means of escape in case of fire. Buildings must be constructed, and heating and other equipment must be installed, in accordance with prescribed safety standards.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315). The Department is responsible for inspecting seasonal farm labor camps in the state and for issuing permits to those which meet minimum standards. Authorized agents of the Department may (1) enter public or private property to identify the facilities to which the Act applies, (2) inspect subject camps and all sites, accommodations and equipment associated with them, and (3) inspect adjoining lands, other than property used for the owner's personal use.

Any seasonal farmworker or representative of seasonal farmworkers who believes a farm labor camp is in violation of the Act may request an inspection by the Department; at the request of the complainant, the complainant's name may be kept confidential until such time as formal enforcement proceedings, if any, are brought against the camp owner. The Department may revoke a camp permit whenever the agency finds a violation of the Act or the associated regulations, or any condition which would be grounds for refusing to issue or renew a permit. In addition to loss of authority to operate the facility, anyone who violates the labor camp provisions is subject to civil penalties and criminal prosecution.

Texas

MIGRANT LABOR HOUSING FACILITIES LAW

STATUTORY CITATION: Tex. Govt. Code §§ 2306.921 - 2306.933

RELATED REGULATIONS: 10 Tex. Admin. Code §§ 90.1 - 90.8

GENERAL SUMMARY: Chapter 2306, Subchapter LL of the Government Code requires the licensing of migrant labor housing facilities, briefly defined as one or more structures or vehicles used for more than 3 days as living quarters for 3 or more migrant, seasonal or temporary agricultural workers, or for 2 or more such families, whether or not rent is charged in connection with use or occupancy.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may establish, maintain or operate any migrant labor housing facility in Texas without first obtaining an annual license from the state to do so. The license must be kept posted at the facility to which it applies at all times during its maintenance or operation.

APPLICATION AND INSPECTION — Application for a migrant labor housing facility license must be made at least 45 days prior to intended operation. Within 30 days after receipt of an application, the state enforcement agency must inspect the premises, and if the facility meets the minimum standards applicable to such housing, the agency will issue a license.

MINIMUM STANDARDS — Following are key elements among the detailed regulatory rules governing the construction, sanitation, equipment and operation of migrant labor housing facilities:

Facility Site — Sites must be well drained, must be free from conditions that can cause offensive odors, flies, fires or similar nuisances and hazards, and must be located at least 500 feet from livestock feeding pens.

Water Supply — Facilities must have a water supply which meets state-prescribed standards. There must be hot water for bathing, laundering, cooking and dishwashing purposes.

Sewage Disposal — Toilets, sinks and drains must be connected to a public sewer system, if available. If not, sewage disposal facilities must be constructed and maintained in accordance with applicable state regulations.

Structures — Housing units and common-use structures must be of sound construction and maintained in a sanitary condition. In living areas used for combined cooking, eating and sleeping purposes, no less than 100 square feet of floor space is required for each occupant over 18 months of age. Rooms used only for sleeping purposes must provide at least 50 square feet of floor space for each intended occupant.

Cooking and Eating Arrangements — Each unit where individual occupants or families prepare their own meals must be equipped with a cook stove, adequate shelves for food storage and counter space for food preparation, mechanical refrigeration, a table and seats for dining, sinks with hot and cold running water under pressure, and lighting and ventilation. The regulations also include detailed requirements for communal or central food service facilities.

Sleeping Arrangements — Beds, cots or bunks, complete with springs, mattresses and mattress covers, are required for all occupants. Such facilities must be kept clean and sanitary and arranged to prevent overcrowding.

Heating — Living quarters and service rooms must have properly installed heating equipment capable of maintaining a temperature of at least 68 degrees F. Heating devices utilizing combustible fuel must be vented, and portable units other than those powered by electricity are forbidden.

Bathing and Laundry Facilities — There must be bathing and laundry facilities within 200 feet of each housing unit. Communal bathrooms, separated and clearly marked for each sex, must contain at least one showerhead for every 10 persons and one wash basin for every 6 persons. Clothes-washing equipment must be provided in a minimum ratio of one washing machine for every 50 occupants, or one laundry tray or tub for every 25. Facilities for drying clothes are also required.

Toilets — Toilet facilities must be within 200 feet of the housing, but privies may be no closer than 100 feet to any living unit, dining room or kitchen. Communal accommodations must have separate, clearly marked facilities for men and women. For every 15 occupants of each sex whose housing units are not equipped with private facilities, there must be one toilet in the communal restroom.

Garbage Facilities — Containers for garbage and other refuse must be located within 100 feet of each unit and must be equipped with tight-fitting lids. Garbage must be collected at least twice a week.

Electricity and Lighting — All housing facilities have to have electricity. There must be adequate numbers of lighting fixtures and electrical outlets in each unit, installed and maintained in safe condition.

Screening - All outside openings on each structure must be screened, and screen doors must be self-closing.

Insect and Rodent Control — Housing and service rooms must be constructed so as to exclude insects, rodents and other pests.

Safety — There must be adequate means of escape from all living units and central facilities in case of fire, and fire extinguishing equipment must be available within 100 feet of each facility. First-aid supplies must be provided at each facility and must be accessible at all times. Agricultural pesticides and toxic chemicals may not be stored within the housing site; all such materials and any potentially hazardous farm implements or equipment kept within 500 feet of a migrant labor housing facility must be stored in a secure, locked enclosure.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Texas Department of Housing and Community Affairs, Austin, Texas 78711 (512-475-3976). This agency is responsible for licensing and inspecting migrant labor housing in the state. Both prior to licensing and as often as circumstances warrant thereafter, representatives of the Department may enter and inspect migrant housing facilities and investigate other facts necessary to ascertain compliance with these provisions.

In addition to its authority to grant, suspend or revoke licensing, the Department may apply to district court for an injunction to restrain a violation of any provision of the housing facility law and the associated regulations. Operation of such a facility without a license and all other infractions are grounds for a civil penalty of \$200 for each day the violation occurs, enforceable by the local county attorney or the state attorney general.

A worker who has a complaint or question about a migrant housing facility covered by this law may contact TDHCA toll-free, at 877-313-3023.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may apply to district court for an injunction to restrain a violation of any provision of the migrant labor housing facilities law and the associated regulations.

Virginia

MIGRANT LABOR CAMP LAW

STATUTORY CITATION: Va. Code §§ 32.1-203 - 32.1-211

RELATED REGULATIONS: 12 Va. Admin. Code §§ 5-501-10 - 5-501-350

GENERAL SUMMARY: Article 6 of the environmental health laws regulates the operation of migrant labor camps in Virginia, briefly defined as one or more structures, vehicles or unconventional enclosures used as living quarters for one or more persons, at least one of whom is a migrant worker engaged in agricultural activities, including related food processing.

SPECIFIC TERMS AND CONDITIONS

NOTICE OF INTENT TO CONSTRUCT — Any party planning to construct, remodel or enlarge a migrant labor camp, or to convert property for use as a camp, must notify the state enforcement agency in writing of the intent to do so at least 30 days before commencing any such work. In response, the state agency must furnish the party with a copy of the migrant labor camp law and applicable regulations.

PERMITS — It is unlawful for anyone to operate a migrant labor camp, or allow such a facility to be occupied or used, without a permit from the state. A permit application must be submitted to the state agency at least 30 days before the camp is to be opened. If, after required inspection, the agency finds that the facility conforms to statutory and regulatory standards, a permit will be issued for the balance of the calendar year. The agency may issue a provisional permit, valid for up to 30 days, authorizing operation of a camp which does not conform to standards, provided such operation will not create an imminent danger to public health and safety.

INSPECTIONS — After the initial permit inspection, local health department staff are responsible for inspecting the camp for compliance with the regulatory standards outlined below. A camp may be inspected as often as necessary during occupancy, and the local health department may move to suspend or revoke the permit of any facility found out of compliance.

REGULATORY STANDARDS — Migrant housing built or under construction prior to April 3, 1980, or for which a construction contract was signed prior to March 4, 1980, is subject to the housing standards established by either the U.S. Employment and Training Administration (see entry, U.S. — Housing — Farm Labor Housing Standards) or the U.S. Occupational Safety and Health Administration (U.S.—Housing—General Employee Housing Standards), at the discretion of the individual camp operator. All migrant housing built or contracted for after the dates cited are subject to the OSHA standards. In addition, housing facilities subject to the state migrant labor camp law must meet the following supplemental requirements:

Trash and Garbage Collection — Camp operators must either provide a bulk container into which family trash containers may be emptied, or arrange for regular trash collection service. Refuse from individual units or from bulk containers must be disposed of by the camp operator in accordance with state solid waste regulations.

Water Supply — All camps subject to this law must have a state-approved water supply.

Sewage Disposal - Migrant labor camps must comply with state sewage-disposal regulations.

Hazardous Materials — Agricultural pesticides and toxic chemicals may not be stored in any housing or dining area. Pesticide storage facilities must generally be at least 100 feet from wells or surface water, must be clearly marked to indicate that hazardous materials are stored within, and must be locked when not in use.

Construction Standards — In general, all structures must be in conformity with the uniform statewide building code.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Environmental Health Services, Virginia Department of Health, Richmond, Virginia 23219 (804-864-7473). This agency is responsible for inspecting and issuing permits for migrant labor camps in Virginia, and for assuring their continued compliance with the law and applicable regulations. The Department may deny, revoke or suspend a camp permit whenever the facility is found in violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Local health departments share responsibility for periodic inspections of migrant labor camps, to check compliance with the labor camp law and regulations.

Wisconsin

MIGRANT LABOR LAW (MIGRANT LABOR CAMPS)

STATUTORY CITATION: Wis. Stat. §§ 103.90 - 103.97

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 301

GENERAL SUMMARY: Among other regulatory matters, Wisconsin's migrant labor law governs the operation of migrant labor camps, defined in brief as any site and all structures thereon maintained as living quarters for one or more workers who leave their principal place of residence outside the state and come to Wisconsin for not more than 10 months a year to engage in seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may operate a migrant labor camp without an annual certificate from the state. By April 1 each year, or no later than 30 days prior to opening a new camp, the owner or operator of such a facility must apply for certification. The state agency must inspect each camp for which an application for certification has been received, and if the camp complies with minimum administrative standards, the agency will issue a certificate authorizing operation of the facility through March 31 of the ensuing year.

MINIMUM STANDARDS — The state agency has adopted detailed specifications for the construction and equipment of migrant labor housing, some of which are summarized below.

Housing Site — No migrant labor camp may be subject to health or safety hazards, or in proximity to conditions that could cause such hazards, and the camp site must be kept free of debris.

Notice of Pesticide Applications — At least 24 hours in advance, the camp operator is required to provide camp occupants with notice of any pesticide application on any land adjacent to the camp which is owned or controlled by the operator. Whenever a camp operator is advised of an aerial pesticide application on adjacent land belonging to someone else, the operator must advise camp occupants as soon as reasonably possible. In either case, notice must be posted on a camp bulletin board or other central gathering place, and must be written in English and in the occupants' language, if other than English.

Water Supply — An adequate and convenient supply of water safe for human consumption must be provided to the camp's residents.

Waste Disposal — Where a public sewer system is accessible, the camp's waste disposal facilities must be attached to the system. Otherwise, a septic tank or other type of liquid waste treatment and disposal system must be provided.

Structures — Housing units and other structures must comply with specified building codes. There must be at least 100 square feet of floor space in areas used for combined cooking, eating and sleeping purposes; otherwise, there must be at least 50 square feet of floor space per occupant. Separate sleeping accommodations must be provided for each sex or for each family.

Screening — All outside doors, windows and other openings must be properly screened, using not less than 16-mesh screening.

Heating — Living quarters and service buildings must be equipped with permanently installed and operable heating devices capable of maintaining a temperature of at least 68 degrees F. Heaters using combustible fuel must be properly vented.

Electricity and Lighting — All housing sites are required to provide electric service. There must be adequate light fixtures and outlets in all living areas.

Toilets — Toilet facilities must be located within 200 feet of each living unit, and except in individual family units, there must be separate toilet accommodations for men and women. Privies are not permitted.

Bathing, Laundry and Handwashing Facilities — Within 200 feet of each living unit, there must be clean and sanitary bathing and handwashing facilities, supplied with hot and cold water under pressure. Common-use facilities must be properly separated by sex.

Laundry Facilities — Occupants must have use of laundry facilities, with adequate hot and cold water under pressure. Laundry rooms must be equipped with no less than one washing machine for every 30 residents, along with at least one laundry tray, tub or sink.

Cooking and Eating Facilities — Workers or families who are required or permitted to cook in their individual units must be furnished with a cook stove (with oven), adequate food storage and preparation space, mechanical refrigeration capable of maintaining food at a temperature no greater than 45 degrees F., a table and chairs or equivalent seating and eating arrangements, and an adequate sink with hot and cold water under pressure. Congregate food service facilities are subject to similar specifications.

Garbage and Other Refuse — There must be durable fly-tight containers, with a minimum capacity of 20 gallons, adjacent to each unit for the storage of trash, in a minimum ratio of one for every 10 persons. Trash must be collected at least twice a week.

Sleeping Facilities — Every occupant of a migrant camp must be provided with a bed or bunk, equipped with a clean mattress. Any bedding supplied by the camp operator must be clean and sanitary.

Fire, Safety, and First Aid — Camps must be built and maintained in accordance with state and local fire and safety laws. There must be multiple means of escape in the event of fire, and not more than 100 feet from each housing unit there must be readily accessible fire extinguishing equipment and first-aid supplies. There must be a functional smoke detector in each sleeping area. No flammable liquids or materials (other than those needed for current household use) may be stored in or around living areas, and agricultural pesticides and toxic chemicals may not be stored in the housing area.

Operator Responsibilities — At least once a week, the camp operator is required to inspect the camp to see that all areas are kept clean and orderly and that broken or damaged property is promptly repaired. The operator must designate someone to maintain the grounds and common-use facilities, and if the camp houses 100 persons or more, the operator must provide a full-time staff member for that purpose.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). This agency is responsible for inspecting and certifying migrant labor camps in Wisconsin, and for enforcing the continued compliance of licensed housing with the state minimum standards. After providing notice to the owner or operator, agents of the Department may enter any property during reasonable daylight hours to determine whether a facility subject to these provisions exists, and to make an initial or follow-up inspection. After a mandatory 15-day correction period, the Department may revoke a certificate and order closure of the camp if it finds a violation of standards. In general, failure to correct a violation within 15 days of receipt of formal notice from the Department may lead to a money penalty against the owner or operator of the facility.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

Florida

PUBLIC HEALTH LAWS (ACCESS TO MIGRANT HOUSING)

STATUTORY CITATION: Fla. Stat. § 381.00897

GENERAL SUMMARY: The provisions in the state public health laws that regulate migrant labor camps and residential migrant housing in Florida include explicit language regarding access rights.

SPECIFIC TERMS AND CONDITIONS

RIGHT OF ACCESS BY INVITED GUESTS — A resident of a migrant labor camp or residential migrant housing (both defined in the preceding entry) may decide who may visit him or her in the resident's private living quarters. No one may prohibit an invited guest from entering or leaving a resident's private living quarters, by erecting any sort of physical barrier or by use of force, violence or threats. An invited guest must, however, leave the private living quarters upon the reasonable request of a resident residing within the same living quarters.

RIGHT OF ACCESS BY OTHERS — No one may prohibit other authorized visitors from entering or leaving the common areas of a migrant housing facility, by erecting any sort of physical barrier or by use of force, violence or threats. However, owners and operators of migrant housing facilities may adopt reasonable rules regulating hours of access, as long as they permit at least 4 hours of access each day during non-working hours Monday through Saturday, and between 12 noon and 8:00 p.m. on Sunday.

OTHER RULES — Migrant housing owners or operators may adopt other rules regulating access, but only if they are reasonably related to the purpose of promoting the safety, welfare or security of the residents, visitors, or the owner or operator's business. However, rules relating to access are not enforceable unless they have been posted at the housing facility, with a copy submitted to the Florida Department of Health.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – A person who has been denied access to a migrant labor camp or residential migrant housing in apparent violation of these provisions may file a complaint in the appropriate court in the county where the housing is located, using a private attorney or public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

CRIMINAL CODE OF 2012 (CRIMINAL TRESPASS)

STATUTORY CITATION: 720 Ill. Comp. Stat. § 5/21-3

GENERAL SUMMARY: The Criminal Code provides that anyone who enters upon the land of another after receiving prior notice from the owner or occupant that such entry is forbidden, or who remains on the property after receiving notice from the owner or occupant to depart, is guilty of criminal trespass. An exception, however, is made in the case of migrant workers and the guests of migrant workers who are housed on private property in connection with their employment.

SPECIFIC TERMS AND CONDITIONS: A migrant farmworker or anyone else who lives on private property with permission of the owner, or any agent of the owner having authority to hire workers and assign them living quarters, is entitled to free access to the premises without regard to the criminal trespass provisions. Likewise, the criminal trespass law does not apply to anyone invited by a migrant worker living on such land to visit the worker at the place where the worker is living.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The state's criminal laws are enforced by state and local law enforcement agencies and public prosecutors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has been denied free access to his or her living quarters on private property, or whose guests have been denied such access, should contact a private attorney or a public legal service provider.

Maryland

ATTORNEY GENERAL OPINION NO. 82-024

STATUTORY CITATION: 67 Opp. Atty. Gen. Md. 64

GENERAL SUMMARY: Opinion No. 82-024, issued by the state attorney general in July 1982, clarifies the right of migrant workers in Maryland to receive visitors in their living quarters, subject only to reasonable rules necessary to protect business and security interests.

SPECIFIC TERMS AND CONDITIONS: Agricultural producers in Maryland may not exclude from migrant labor camps under their control or ownership representatives of public or private agencies which provide services to migrant workers, nor may they bar anyone else who is invited onto the premises by a resident. If a worker informs the camp owner or operator that he or she is expecting a visitor, the owner or operator may not inquire as to the purpose of the visit; in any other case, the owner or operator may require visitors to identify themselves and state the general purpose of their visit. Representatives of government agencies or private farmworker service providers may enter a camp, seek out workers, and remain in the camp for as long as any resident is utilizing their services, without the presence of the camp owner or operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — The right of access and visitation at migrant labor housing facilities is enforceable through the courts. Any worker who is denied communication with anyone at his or her place of residence in Maryland should consult with a private attorney or public legal service provider.

Massachusetts

PUBLIC HEALTH LAWS (ACCESS TO FARM LABOR CAMPS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, § 128H RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: In addition to the health and sanitation requirements applicable to farm labor camps, Chapter 111 of the state statutes includes a provision which guarantees residents' rights to access and visitation at those facilities.

SPECIFIC TERMS AND CONDITIONS: During the period of employment, every migrant farmworker who shares living quarters with the employer or resides on the employer's property has the right to enter and leave the premises at will. Likewise, workers occupying housing other than the employer's own residence may exercise reasonable rights of visitation in their living quarters outside regular working hours. In either case, the certificate of occupancy issued by the state enforcement agency for such a labor housing facility must include a notification of these rights, in English and Spanish.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757). Any migrant worker who is living in a farm labor camp or other housing furnished by the employer and who is denied access, or whose guests are denied access, to such housing may file a complaint with the Department. The Department, in turn, is authorized to petition the superior court to restrain or enjoin such a violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state sanitation code, including the farm labor camp access provisions, may be enforced by local boards of health.

Oregon

CIVIL RIGHTS LAWS (EMPLOYER-CONTROLLED HOUSING)

STATUTORY CITATION: Or. Rev. Stat. §§ 659A.250 - 659A.262

GENERAL SUMMARY: The state civil rights laws include provisions that (1) prohibit the restriction of access to employee housing controlled by employers, (2) limit the enforceability of employer rules governing the use and occupancy of employee housing, and (3) prohibit eviction or discrimination against an employee for exercising any rights granted by these provisions, which protect agricultural and non-agricultural employees without distinction.

SPECIFIC TERMS AND CONDITIONS

ACCESS RIGHTS — It is illegal for an employer to restrict access by government officials, medical doctors, education providers, or health care officials, or by the invited guests of a resident, to any housing owned, rented or controlled by an employer where employees are residing. The term "access" does not include the right to enter an individual employee's residence unless a member of the household consents to such entry, nor does it include the right of a visitor to use services provided by the employer for the exclusive use of employees. Invited persons must announce their presence on the premises upon request, and visitors who represent a government agency, service provider or religious organization must provide credentials identifying themselves as such. Invited guests are not entitled to enter work areas.

EMPLOYER-IMPOSED RULES — Rules adopted by an employer to regulate the use and occupancy of employee housing (including hours of access) are enforceable against the employee only if the rules (1) relate reasonably closely to the purpose of promoting the safety or welfare of residents or visitors, (2) preserve the employer's property from abuse, (3) apply fairly to all employees on the premises, and (4) are sufficiently explicit in directing or limiting the employees' conduct as to fairly inform them of what must be done to comply. Any such rules must be conspicuously posted at least 3 days prior to enforcement.

EVICTION OR DISCRIMINATION — It is unlawful for an employer to evict from any employer-provided housing, or to fire, suspend or discriminate against in any other manner, an employee or member of an employee's household, because such resident (1) has reported or complained concerning violations of the above provisions, or (2) has communicated with anyone who has access rights to the housing facility or invited anyone to residential areas.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). Violation of the employer-controlled housing provisions of the state civil rights laws subjects the violator to the same civil and criminal remedies and penalties prescribed for an unlawful employment practice under the same statute (see entry, Oregon—Civil Rights—Fair Employment Practices). Any employee living in employer-provided housing who has been denied visitation at the housing site, or any authorized visitor who has been denied access, may file a complaint with the Bureau within one year after the alleged violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the Bureau of Labor and Industries fails to file formal charges or otherwise resolve a worker's complaint within one year after the complaint is filed, the worker may file suit against the employer involved at any time within 90 days thereafter, using a private attorney or a public legal services program. The worker also has the option of taking private legal action against the violator without first filing an administrative complaint with the Bureau, but any such suit must commence no later than one year after the violation occurred.

Pennsylvania

SEASONAL FARM LABOR ACT (FARM LABOR CAMP ACCESS AND ENTRY)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.401 - 1301.403

GENERAL SUMMARY: In addition to authorizing substantive standards to assure safe and decent farmworker housing in the state, the Seasonal Farm Labor Act confers certain tenancy and access rights on residents and visitors at camps regulated under the Act.

SPECIFIC TERMS AND CONDITIONS

TENANCY RIGHTS — A seasonal farmworker who resides in any structure or property which is owned, leased or operated by an employer or farm labor contractor, and which is occupied for at least 6 months in a calendar year, has all the rights and recourse to law as if the worker were a tenant in possession. This includes, among other protections, the right to 3 days' notice prior to eviction, or 2 weeks' notice if the worker lives on the property with one or more dependents. Tenancy rights apply for as long as the worker resides at the facility, whether or not rent is charged.

ACCESS RIGHTS — It is illegal for anyone to deny or limit entry to or egress from the premises of a seasonal farm labor camp by any of the following persons:

- A guest of an occupant of the camp.
- (2) A person working under the auspices of a private organization whose primary interest in entering the premises is the health, safety, welfare or dignity of seasonal farmworkers.
- (3) A representative of a federal, state or local government agency who, if requested, presents proper identification to the owner of the camp and whose agency has notified the owner at some time during the current season concerning the agency's purpose and the identity of its agent or agents.
- (4) An individual, group or public agency whose primary purpose is to provide a service to the owner of the camp rather than to the camp's occupants.

Reasonable access by such persons to the grounds of a labor camp may not be prohibited, interfered with or limited in any way, whether by erecting or maintaining a physical barrier, by using physical force or violence, by posting a written notice, or by issuing a verbal order.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315). Any resident of a farm labor camp who has been unlawfully evicted or denied visitation by a guest or other authorized visitor, or any authorized person who has been denied entry to a camp, may file a complaint with the Department, which may take civil and criminal action against the camp owner if a violation of the tenancy and access provisions is confirmed.

Wisconsin

MIGRANT LABOR LAW (ACCESS, ENTRY, AND TENANCY)

STATUTORY CITATION: Wis. Stat. §§ 103.925 - 103.926

GENERAL SUMMARY: Wisconsin's migrant labor law includes, among other provisions, certain assurances regarding farmworker housing rights.

SPECIFIC TERMS AND CONDITIONS

ACCESS AND ENTRY — Migrant agricultural workers have the right to decide who may visit them at their residence, and no one may prohibit or interfere with access to or egress from the residence of any such worker, either by the use of a fence or other physical barrier, by posting of any sign or notice, or by the use or threat of force or violence. Any fence erected around a migrant labor camp must have one or more gateways, and posting of land adjacent to a camp is not permitted unless access to the camp is clearly marked.

VACATING RESIDENCE — After a migrant worker's employment has been terminated, an employer may not require the worker to vacate residence at a migrant labor camp operated by the employer until the worker has received final payment of wages in full.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). Any migrant worker who has been denied visitation by guests at his or her residence, or any person who has been invited to a worker's residence and has been refused entry, may file a complaint with the Department, which is authorized to investigate the complaint and take action to assure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

U.S.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR §§ 655.100 - 655.185 and 29 CFR Part 501

GENERAL SUMMARY: Any farming establishment seeking certification to employ temporary foreign agricultural labor under the so-called "H-2A" program is required to circulate a formal job offer for U.S. workers starting no earlier than 75 days and no later than 60 days before the work is expected to begin. If the employer's H-2A application is later approved, the U.S. and foreign workers hired by the employer pursuant to the job offer must receive a written work contract specifying the benefits and conditions of employment. Both the job offer and the work contract must contain certain minimum standards and guarantees, including requirements related to housing.

SPECIFIC TERMS AND CONDITIONS

ASSURANCE OF COST-FREE HOUSING — Every employer applying for the use of foreign agricultural workers must assure the availability of housing for any worker who is not reasonably able to return to his or her own residence each day, at no charge to the worker. The employer's obligation to provide cost-free housing extends not only to the foreign workers admitted to the U.S. under the H-2A application (if approved), but also to those domestic workers recruited prior to approval of the application, and to any U.S. workers hired by the employer thereafter to perform the same services in the same area. Furthermore, when it is prevailing local practice to provide domestic farmworkers with family-type housing, family housing must be provided to those U.S. workers recruited in connection with an H-2A job offer who request such housing for themselves and their families.

HOUSING STANDARDS AND INSPECTION — Housing facilities owned or operated by the employer must be inspected and found in full compliance with applicable ETA or OSHA farmworker housing standards prior to occupancy, or the employer's H-2A application will be denied. At the employer's option, the employer may arrange to house the workers in rental units or public housing which meets local, state or federal standards, but any charges for the use of such facilities must be paid by the employer. Deposits on bedding or similar incidentals related to housing may not be assessed against the workers, and only under certain conditions may the employer require reimbursement from workers found responsible for damages to housing or facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the mandatory work contract between H-2A employers and their foreign and U.S. workers, including the requirement to provide free worker housing. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. In general, each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the associated job offers comply with statutory requirements, including the offer of cost-free housing for the workers.

Connecticut

LANDLORD-TENANT LAWS

STATUTORY CITATION: Conn. Gen. Stat. § 47a-30

GENERAL SUMMARY: The state landlord-tenant laws contain a provision granting farm employees certain rights with respect to employer-provided housing at the time of termination of employment.

SPECIFIC TERMS AND CONDITIONS: When a farmworker occupies a dwelling provided by the worker's employer and does not leave the premises whenever the employment ends or is terminated, the employer must give the worker at least 3 days' notice to leave, on a form prescribed by statute. If the worker fails to vacate the housing within the time period specified in the notice, a summary process action may be brought against the worker. At the summary process hearing, the court may take into account the worker's needs and grant a fair and reasonable stay of execution of eviction, for up to 15 days.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A farmworker who is evicted or faced with imminent removal from an employer-provided housing unit contrary to these provisions may seek redress in civil court, by consulting a private attorney or public legal service provider.

Maryland

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 - 7-507

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, including the provision of worker housing facilities. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS: Prior to entry into Maryland with migrant agricultural workers for purposes of employment, or before recruiting migrant workers within the state, every farm labor contractor must disclose in writing the terms and conditions under which housing (if any) is to be provided to the workers, and the costs to be charged for its use. Whenever a contractor furnishes housing for migrant agricultural workers, either by agreement with an agricultural employer or agricultural association or otherwise, the contractor must ensure that the terms and conditions of occupancy are posted in a conspicuous place throughout the duration of the stay.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for issuing certificates of registration to farm labor contractors who meet the prescribed registration requirements, and for enforcing compliance with the duties imposed by the registration law, including the housing-related provisions. Failure by a contractor to observe the conditions summarized above is grounds for suspension, revocation or refusal to renew the contractor's registration certificate, as well as assessment of civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

→ STATE LABOR LAWS (MIGRANT LABOR RECRUITMENT)

STATUTORY CITATION: Minn. Stat. §§ 181.85 - 181.91

GENERAL SUMMARY: The state labor statutes include protections for out-of-state migrant workers recruited for seasonal agricultural employment in Minnesota, including provisions related to housing.

SPECIFIC TERMS AND CONDITIONS

HOUSING DISCLOSURES — Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in any calendar year must, at the time of recruitment, furnish each worker with a bilingual statement indicating, among other things, whether or not housing will be provided. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

REQUIREMENT TO VACATE — A processor, as defined above, who recruits, employs and provides housing facilities to migrant workers, as defined above, may require any such worker to vacate the housing, but only after final payment of wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$500, plus court costs and attorney's fees.

New York

GENERAL LABOR LAWS (FARM LABOR CAMP COMMISSARIES)

STATUTORY CITATION: N.Y. Labor Law §§ 212-B - 212-C

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 197

GENERAL SUMMARY: Article 7 of the state labor laws includes provisions regulating the operation of farm labor camp commissaries, defined as places where goods are offered for sale or lease and which are operated at or in connection with a farm labor camp.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No one may operate a farm labor camp commissary without a valid permit to do so issued by the state. The permit must be prominently displayed at the facility at all times.

POSTING OF PRICES — A permit-holder must keep posted in a conspicuous place at the commissary site the current prices of all goods (including meals) offered to consumers at the facility. Prices charged may not exceed the posted price.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). The Department is responsible for issuing farm labor camp commissary permits and enforcing compliance with the duties and restrictions imposed on commissary operators. A violation of the statutory and regulatory provisions applicable to such outlets may result in suspension, revocation, or refusal to renew the permit, as well as prosecution of the operator on misdemeanor charges.

U.S.

● FEDERAL UNEMPLOYMENT TAX ACT

STATUTORY CITATION: 26 USC §§ 3301 - 3311

GENERAL SUMMARY: The Federal Unemployment Tax Act imposes a tax on most employers across the country, which helps finance operation of the nation's unemployment insurance program. Federal UI taxes collected from employers are, in large part, distributed by formula to the states to offset the cost of administering the UI program, while taxes collected from employers by the state are used to pay unemployment benefits to individual claimants. Under the federal-state system, employers who are subject to federal UI taxes, and who pay state UI contributions under a state law that conforms to federal standards, receive credit for such payments against their federal tax liability.

With certain exceptions, employers are required to pay federal UI taxes if they (1) paid wages of \$1,500 or more during any calendar quarter in the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 or more different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast with the more stringent coverage criteria applicable to employers in other sectors, a farm operator or other agricultural employer is subject to federal unemployment insurance taxes only if the employer pays cash agricultural wages of \$20,000 or more in any calendar quarter of the current or preceding calendar year, or employs at least 10 agricultural workers in 20 different weeks in the current or preceding calendar year. Subject farm employers must pay federal UI taxes on behalf of covered employees with respect to the first \$7,000 in wages paid to each such worker during the year.

In turn, agricultural workers who are unemployed but who are available for work may qualify for UI benefits if they have been employed by one or more subject employers and meet the eligibility requirements for benefits under a state UI statute approved by the Secretary of Labor.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3032). ETA is responsible for reviewing state unemployment compensation laws to determine compliance with federal requirements and for overseeing state administration of UI claims, appeals and benefits. Immediate problems involving tax liability and compensation payments, however, must generally be addressed by the designated state agency.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710). Primarily through its district offices and regional service centers, IRS is responsible for the collection of federal UI taxes from subject employers and accordingly may involve itself in questions regarding federal tax liability and compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Unemployment insurance laws have been enacted in all 50 states and Puerto Rico. Most such statutes provide for coverage of only those agricultural workers employed by comparatively large agricultural establishments, to the extent required by the federal provisions outlined above, while workers in other states are insured even on small farms. For a summary of state coverage criteria and identification of the state administering agency, see the first entry under the heading "Insurance & Compensation" for the particular state in question.

Alabama

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-4-1 - 25-4-152

GENERAL SUMMARY: Chapter 4 of the Alabama labor laws establishes a state unemployment compensation trust fund, provides for the collection of unemployment insurance contributions from subject employers, and provides for the payment of UI benefits to covered workers who are involuntarily unemployed.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Liability for payment of UI taxes extends to those agricultural employers who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed in agricultural labor 10 or more workers. Only the first \$8,000 of wages paid in a calendar year to each worker by a covered employer is subject to state UI taxation.

ELIGIBILITY FOR BENEFITS — Subject to numerous other limitations, workers who meet the law's earnings requirements, and who are without work but are available for and actively seeking employment, are eligible for weekly unemployment insurance benefits. Generally, to qualify for benefits in Alabama, a worker must have, during the first four of the last five completed calendar quarters immediately preceding the claim (the "base period"), received total wages for insured employment in that four-quarter period equal to or exceeding 1½ times the wages received in the one quarter in which wages were highest.

AMOUNT OF BENEFITS — For eligible workers who are totally unemployed, the amount of the weekly benefits is calculated at 1/26 of the average wages for insured employment paid during the two quarters of the base period when wages were highest, but state law provides for no benefits if the calculation does not amount to more than \$44.50 and limits the weekly benefit to \$265. Weekly benefit payments are equal to the weekly benefit amount, minus any wages received that week in excess of one-third of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130 (866-234-5382). This agency is responsible for collecting UI taxes, receiving and processing UI claims and appeals, and administering UI benefit payments. Workers may apply for benefits online, at https://labor.alabama.gov/uc/claims/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alaska

■ ALASKA EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Alaska Stat. §§ 23.20.005 - 23.20.535

GENERAL SUMMARY: The Alaska Employment Security Act authorizes the maintenance of the state's system of public employment offices and the state unemployment insurance program. Unless otherwise exempted, employers who for some portion of a day during the year employ or employed one or more individuals generally must pay contributions into the state unemployment compensation fund for the benefit of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — In general, any farm employer who (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) employed in agricultural labor 10 or more workers for some portion of a day in at least 20 different calendar weeks in the current or preceding calendar year, must pay contributions into the state unemployment compensation fund. With respect to each covered employee, the amount of the employer's contributions is calculated by multiplying the employee's wages — up to a calendar-year limit equal to 75 percent of the average annual wage in Alaska over the preceding 12-month period ending June 30 — by the employer's applicable UI tax rate.

ELIGIBILITY FOR BENEFITS — Unemployed workers who, over the first four of the last five completed calendar quarters preceding application, have been paid at least \$2,500 in wages by employers subject to UI taxes, as summarized above, are generally eligible for unemployment benefits, provided such wages were paid in at least two calendar quarters.

AMOUNT OF BENEFITS — Eligible unemployed workers who are available for work and actively seeking work may receive regular weekly benefits ranging from \$56 to \$370 per week, depending on past earnings, for from 16 to 26 weeks. They may also qualify for an additional allowance for dependents.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor, is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment and Training Services Division, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2712). This agency is responsible for determining employers' UI tax liability, collecting UI contributions, receiving and processing benefit claims and appeals, and paying benefits. Claims may be filed online, at my.alaska.gov.

Arizona

ARIZONA EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-601 - 23-799

GENERAL SUMMARY: The Employment Security Act provides for the payment of unemployment insurance benefits to covered workers who are able to work, available for work, and involuntarily unemployed through no fault of their own. To help finance the state's UI system, the Act generally requires mandatory contributions to the unemployment compensation fund by employers who (1) employed one or more employees for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, or (2) paid at least \$1,500 in wages in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who either (1) employed 10 or more workers for all or part of a day in 20 or more different weeks in the current or preceding calendar year, or (2) paid at least \$20,000 in cash wages for agricultural labor in a calendar quarter in the current or preceding calendar year, must pay unemployment insurance contributions to the state on behalf of their workers. Only the first \$7,000 in wages paid to each employee is subject to taxation.

ELIGIBILITY FOR BENEFITS — Generally, an unemployed agricultural worker, like any other jobless individual, is eligible to receive weekly unemployment insurance payments if the worker (1) is able to work, available for work, and actively seeking employment, (2) has, over the first four of the last five completed calendar quarters prior to filing a claim, received from employers subject to UI taxes total wages equal to at least $1^{1}/2$ times the amount of wages received in the one quarter in which wages were highest, and (3) has, during one of the last five completed calendar quarters prior to filing the claim, earned at least 390 times the state hourly minimum wage from employers subject to UI taxes.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is equal to 1/25 of the person's total insured wages received during the highest-wage quarter, up to a maximum of \$240 per week. Any part-time job earnings in excess of \$30 received during a week when unemployment benefits are payable are subtracted from the regular weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employer Engagement Administration, Department of Economic Security, Phoenix, Arizona 85012 (602-771-6606). This agency is responsible for determining employers' liability for payment of unemployment insurance contributions, and for collecting contributions from liable employers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Workforce Administration, Department of Economic Security, Phoenix, Arizona 85007 (877-600-2722). This agency is responsible for processing UI claims and appeals, and for issuing UI benefit payments. Unemployed workers who believe they are eligible for benefits may file a claim online at www.azui.com, or by visiting a local office of the Department of Economic Security.

Arkansas

■ DEPARTMENT OF WORKFORCE SERVICES LAW

STATUTORY CITATION: Ark. Code §§ 11-10-101 - 11-10-804

GENERAL SUMMARY: The Department of Workforce Services Law provides for the collection from employers of mandatory contributions to the state unemployment compensation fund and the payment of benefits to workers who are involuntarily unemployed. In general, employers who have one or more employees for 10 or more days within the current or preceding calendar year are required to pay UI taxes into the state UI fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments that (1) during any calendar quarter in the current or preceding calendar year paid at least \$20,000 in cash wages for agricultural labor, or (2) for some portion of a day in 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, are required to pay unemployment insurance taxes on behalf of their employees. Contributions are payable on the first \$12,000 in wages paid to each employee during the calendar year.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker is eligible for benefits if the worker (1) is registered for employment, is physically and mentally able to perform suitable work, and is available for work, (2) has, during the first four of the last five completed calendar quarters immediately preceding application for benefits, earned wages from insured employment in at least 2 such quarters, and (3) has earned total wages over the four-quarter base period equal to at least 35 times the worker's weekly benefit amount, defined in the next paragraph.

AMOUNT OF BENEFITS — The weekly benefit amount is a sum equal to 1/26 of the worker's total insured wages during the four quarters of the base period. No weekly benefit amount may be less than 12 percent of the state average weekly wage for insured employment for the preceding calendar year, nor may it exceed 66 1/3 percent of that benchmark or \$451, whichever is less. The amount of benefits payable to an eligible worker during any week of total or partial unemployment is equal to the weekly benefit amount, minus the amount of any earnings for the week which exceed 40 percent of the weekly benefit amount.

SEASONAL WORKER PROVISIONS — Unemployment insurance claims filed by workers who have earnings from employment in administratively designated seasonal industries are subject to special rules which may adversely affect claimants' eligibility for benefits, as well as the amount and duration of such benefits.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Administration, Arkansas Department of Workforce Services, Little Rock, Arkansas 72203 (501-682-3200). This agency makes all determinations regarding employer liability for payment of UI taxes and is responsible for collecting state contributions from employers determined to be subject to the Department of Workforce Services Law. Likewise, the agency accepts and processes claims by unemployed workers seeking UI benefits and is responsible for the payment of such benefits. Applications for unemployment compensation may be filed in person at any Department of Workforce Services office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

CALIFORNIA UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Cal. Unemp. Ins. Code §§ 1-2129

GENERAL SUMMARY: The California unemployment insurance law authorizes the collection of unemployment insurance contributions from most California employers, and the payment of unemployment compensation to workers who are involuntarily out of work.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers and agricultural employers are covered by the unemployment insurance law to the same extent as most non-agricultural workers and employers.

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments that (1) for some portion of a day in the current or preceding calendar year have one or more employees, and (2) pay more than \$100 in wages during any calendar quarter, are required to pay state UI taxes on behalf of their workers. The amount of the tax is computed on the first \$7,000 of each employee's earnings in a calendar year, at a rate determined annually by the state administering agency in accordance with guidelines specified in the statute.

ELIGIBILITY FOR BENEFITS — A farmworker or any other jobless individual is generally eligible for unemployment compensation benefits if the worker (1) is registered for work, able to work, available for work, and actively seeking employment, and (2) has, during the one quarter of his or her applicable four-quarter base period when wages were highest, earned at least \$1,300 from UI-covered employment, or earned at least \$900 in the peak quarter and at least 1.25 times the amount of peak-quarter wages throughout the entire base period.

AMOUNT OF BENEFITS — A worker's weekly benefit amount depends on the amount of wages the worker received for covered employment during the one calendar quarter in the four-quarter base period in which earnings were highest. The weekly benefit amount may range from \$40 to \$450 per week. The amount of UI benefits payable in a given week is equal to the weekly benefit amount, minus the lesser of (1) the amount of any earnings that week in excess of \$25, or (2) 75 percent of the week's earnings.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Development Department, Sacramento, California 95814 (800-300-5616). The Department is responsible for determining employers' liability for the payment of UI taxes and for the collection of such contributions from liable employers. This agency also receives and processes claims for unemployment insurance benefits. Applications for benefits may be filed online (https://eapply4ui.edd.ca.gov/) or by phone (800-300-5616 in English; 800-326-8937 in Spanish).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – California Unemployment Insurance Appeals Board, Sacramento, California 95833 (916-263-6783).

Colorado

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-70-101 - 8-82-105

GENERAL SUMMARY: Declaring economic insecurity due to unemployment a serious menace to the health, morals and welfare of the people of the state, the Colorado Employment Security Act provides for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. The benefits authorized by the Act are financed by a payroll tax levied against covered employers, who are generally those who paid \$500 or more during any calendar quarter in the current or preceding calendar year, or employed at least one person for some part of a day in 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for farm labor, or (2) employed at least 10 workers in agricultural labor for some portion of a day in at least 20 different calendar weeks in the current or preceding calendar year, are required to pay contributions into the state unemployment compensation fund. Employers are subject to taxation on the first \$11,000 in wages paid to each employee in a calendar year, at a tax rate set by the state annually for each employer.

ELIGIBILITY FOR BENEFITS — A worker is generally eligible for weekly unemployment insurance benefits if the worker (1) is registered for work, able to work, available for work, and actively seeking work, (2) has been unemployed for a waiting period of one week, and (3) has, during the first four of the last five completed calendar quarters preceding the claim, earned at least 40 times the weekly benefit amount, explained below, or \$2,500, whichever is greater.

AMOUNT OF BENEFITS — Each eligible individual who is totally unemployed in any week is paid benefits at the rate of 60 percent of 1/26 of the wages paid for insured work during the two consecutive quarters of the four-quarter base period in which total wages were highest. The weekly benefit amount will generally range from \$25 up to a limit equal to 55 percent of the average weekly earnings in all covered industries in the state. For any week of partial unemployment, the amount of benefits payable is equal to the weekly benefit amount, minus that portion of the week's earnings which exceeds 25 percent of the weekly benefit amount. Except under unusual circumstances, UI benefit checks are issued every two weeks.

SEASONAL WORKER PROVISIONS — With respect to a claim filed by a worker who has any earnings from employment in an industry designated by the state agency as seasonal, benefits based on those earnings may not be collected outside the designated normal employment season for the industry in which the wage credits were earned. Moreover, the total amount of benefits payable on the basis of seasonal wages may not exceed 1/3 of the claimant's seasonal earnings during the four-quarter base period.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Unemployment Insurance, Colorado Department of Labor and Employment, Denver, Colorado 80201 (303-318-9100). The Division is responsible for determining employer liability for unemployment insurance taxes and for collecting contributions from liable employers. The agency also processes claims for UI benefits, hears and decides claims appeals, and supervises benefit payments. Applications for unemployment compensation may be filed online, at coloradoui.gov, or by calling the Division's customer service number at 1-800-388-5515.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

● UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-222 - 31-274j

GENERAL SUMMARY: Chapter 567 of the state statutes establishes an unemployment compensation fund, financed through a tax imposed on employers, out of which weekly cash benefits are paid to covered workers who are involuntarily unemployed. Most Connecticut employers are subject to UI tax if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding year, or (2) employed at least one person for some portion of a day in each of 20 different weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers must pay contributions into the state unemployment compensation fund on behalf of their covered employees if (1) during any calendar quarter in the current or preceding calendar year they paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding year they employed 10 or more workers in agricultural labor. Subject employers are liable for unemployment insurance taxes on the first \$7,100 in cash wages paid to each individual worker. Non-cash compensation such as housing, food or transportation is not considered remuneration for UI tax purposes.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker who applies for benefits and who remains able to work, available for work and actively seeking work is eligible for regular UI benefits if, over the first four of the last five completed calendar quarters prior to the claim, the worker has been paid wages by employers subject to the Act amounting to at least 40 times the total unemployment benefit rate, defined below.

AMOUNT OF BENEFITS — An individual's benefit rate for total unemployment in any week is equal to 1/26 of the average of his or her total earnings during the two quarters of the four-quarter base period in which such wages were highest. The benefit rate generally may range from \$15 up to 60 percent of the average weekly wage for production workers in the state the previous year. A person who is only partially unemployed in any week is generally entitled to receive an amount equal to the total unemployment benefit rate, minus 2/3 the amount of wages earned in that week.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6000). This agency is responsible for determining employers' UI tax liability and for collecting UI contributions from employers subject to taxation. Likewise, this agency processes UI claims filed by unemployed workers and supervises the payment of benefits to eligible claimants. Claims for unemployment benefits can be filed online, at uiclaimsct.force.com/Customers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Del. Code Title 19, §§ 3301–3392

GENERAL SUMMARY: Declaring economic insecurity due to unemployment a serious menace to the health, morals and welfare of the people of Delaware, the state unemployment compensation law provides for the maintenance of an unemployment compensation fund, from which cash benefits are paid to eligible workers involuntarily unemployed. In general, employers who paid at least \$1,500 in wages in any quarter of the current or preceding year, or employed at least one person in 20 or more different weeks this year or last, are required to pay unemployment insurance taxes on their employees' behalf.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid at least \$20,000 in cash wages for agricultural labor, or (2) employed 10 or more workers in agricultural labor for some portion of a day in at least 20 different calendar weeks during the current or preceding calendar year, must pay contributions to the state unemployment compensation fund. Unemployment insurance taxes, at a rate determined annually for each subject employer, are assessed against the employer for up to the first \$18,500 in wages paid to each employee during the calendar year, depending on the financial condition of the fund.

ELIGIBILITY FOR BENEFITS — In general, a person who is unemployed is eligible for benefits if the state agency determines that the claimant (1) is registered for work, able to work, available for work, and actively seeking work, and (2) has, during the first four of the last five completed calendar quarters preceding the initial claim for benefits, been paid wages equal to at least 36 times the weekly benefit amount, explained below.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is defined as 1/46 of the total wages received by the claimant for covered employment during the two quarters of the four-quarter base period during which such wages were highest. In no case may the weekly benefit amount be less than \$20 or more than \$330. Each eligible individual who is unemployed in any week is entitled to receive for that week a sum equal to his or her weekly benefit amount, minus that part of any wages earned from part-time employment that week which exceeds \$10 or 50 percent of the weekly benefit amount, whichever is greater.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Unemployment Insurance, Delaware Department of Labor, Newark, Delaware 19702 (302-368-6600). This agency is in charge of determining the liability of employers for the payment of UI contributions, and for collecting such contributions from liable employers. The Division also handles UI claims and appeals and supervises the payment of UI benefits. Workers who wish to apply for unemployment compensation may file a claim online, at https://uics.delawareworks.com/Forms/Form_WL1.

Florida

● REEMPLOYMENT ASSISTANCE PROGRAM LAW

STATUTORY CITATION: Fla. Stat. §§ 443.011-443.221

GENERAL SUMMARY: The Reemployment Assistance Program Law establishes a state unemployment compensation trust fund, financed by a payroll tax levied against employers in the state, for the purpose of providing bi-weekly cash benefits to workers unemployed through no fault of their own. With some exceptions, Florida employers are required to pay into the unemployment compensation fund on their workers' behalf if they (1) paid at least \$1,500 in wages in a calendar quarter of the current or preceding calendar year, or employed at least one person in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments are liable for payment of unemployment insurance taxes in Florida if (1) during any calendar quarter of the current or preceding calendar year they paid at least \$10,000 in cash farm wages, or (2) for some portion of a day in 20 or more different calendar weeks in the current or preceding calendar year they employed 5 or more workers in farm labor. UI contributions are payable with respect to the first \$7,000 in wages paid to each employee on the employer's payroll during the year.

ELIGIBILITY FOR BENEFITS — An unemployed worker is generally eligible to receive unemployment compensation if the state administering agency finds that the claimant (1) is registered for work, able to work, and available for work, (2) has been unemployed for a waiting period of one week, and (3) has, over the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$3,400 and total wages for insured work equal to at least 1.5 times the earnings in the one quarter when earnings were highest.

AMOUNT OF BENEFITS — A worker's weekly benefit amount is defined as 1/26 of the worker's total wages received in the one quarter of the four-quarter base period when wages were highest, but in no case may the benefit amount be less than \$32 or more than \$275. Each eligible worker who is totally unemployed in any week is entitled to receive the weekly benefit amount, while persons partially unemployed during a week of eligibility receive benefits equal to their weekly benefit amount, minus that part of any wages earned that week in excess of 8 times the federal hourly minimum wage.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Reemployment Assistance, Florida Department of Economic Opportunity, Tallahassee, Florida 32399 (800-204-2418). The Department is responsible for receiving and processing claims for unemployment compensation and for adjudicating UI benefit appeals. The Department also makes determinations regarding the liability of employers for payment of UI contributions and handles collection of UI taxes. Claims for unemployment compensation can be submitted online, at connect.myflorida.com/Claimant/Core/Login.ASPX.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Georgia

● EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Ga. Code §§ 34-8-1 - 34-8-280

GENERAL SUMMARY: The Employment Security Law establishes a state unemployment compensation fund, to provide for the payment of cash benefits to workers who are temporarily jobless through no fault of their own. The fund is financed through a payroll tax imposed on most Georgia employers who (1) paid at least \$1,500 in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee in 20 or more different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who (1) paid at least \$20,000 in cash farm wages during any calendar quarter in the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor in 20 or more calendar weeks in the current or preceding calendar year, are required to pay unemployment insurance taxes to the state, at a rate determined annually for each employer. Subject employers are liable for UI contributions with respect to the first \$9,500 in wages paid to each employee during the calendar year.

ELIGIBILITY FOR BENEFITS — A farmworker or any other individual is generally eligible to receive unemployment compensation benefits with respect to any week of unemployment if the claimant (1) has registered for work, is able to work, is available for work, and is actively seeking employment, (2) has, during the first four of the last five completed calendar quarters immediately preceding the claim, received insured wages during 2 or more quarters, and (3) has been paid total insured wages over the four-quarter base period equaling or exceeding 1½ times the amount of insured wages received during the one quarter when wages were highest.

AMOUNT OF BENEFITS — In general, an eligible claimant's weekly benefit amount is computed by dividing the total insured wages received in the highest two quarters of the four-quarter base period by 42, but in no instance may the weekly benefit amount be less than \$44 or more than \$330. The amount of unemployment compensation payable to an eligible claimant in any week is the weekly benefit amount, minus that part of any wages earned that week in excess of \$30.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Georgia Department of Labor, Atlanta, Georgia 30303 (404-232-3180). The Department is responsible for determining liability of employers for UI contributions, and for collecting contributions from subject employers. This agency also receives and processes claims for unemployment compensation filed by unemployed workers, hears and decides appeals regarding UI eligibility and benefits, and administers weekly compensation payments. Claims may be filed in person at any local Georgia Department of Labor career center, or online at dol.georgia.gov/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

→ HAWAII EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 383-1 - 383-176

GENERAL SUMMARY: The Hawaii Employment Security Law protects most workers in the state against economic hardship during periods of involuntary joblessness, by authorizing the payment of unemployment insurance benefits to persons who lose their job and maintain an active search for new employment. Most employers in Hawaii who have at least one employee are required to pay contributions to the state unemployment compensation fund, from which weekly UI benefits are paid to eligible unemployed workers.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers in Hawaii who (1) during any calendar quarter in either the current or preceding calendar year paid at least \$20,000 in cash wages for agricultural labor, or (2) in either the current or preceding calendar year used agricultural labor in 20 or more calendar weeks, or used at least 10 workers in agricultural labor in any one calendar week, are required to pay contributions to the state unemployment compensation fund on behalf of their workers. With respect to each worker employed during the year, subject employers are liable for unemployment insurance taxes on the worker's wages not exceeding the average annual wage for all covered employment in the state over the four-quarter period ending June 30 of the preceding year.

ELIGIBILITY FOR BENEFITS — As a general rule, an unemployed individual is eligible to receive UI benefits with respect to any week only if the state administering agency finds that the claimant (1) has registered for work at the state employment office, (2) is able to work and available for work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately prior to the claim, received wages for insured work amounting to at least 26 times the claimant's weekly benefit amount, defined below, and has earnings from insured work during at least two quarters of that four-quarter period.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is a sum equal to 1/21 of the individual's total wages for insured work paid during the one calendar quarter in the four-quarter base period in which total wages were highest. The actual amount of benefits payable to an eligible UI recipient in a particular week is the worker's weekly benefit amount, minus whatever wages the worker may have earned that week in excess of \$150.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8913). The UI Division is responsible for determining the Employment Security Law's coverage of individual employers in the state and for collecting unemployment insurance contributions from those employers found subject to taxation. This agency also administers UI benefits under the law, and in that role accepts and processes claims, adjudicates appeals, and supervises the payment of benefits. Claims for unemployment compensation may be filed at any local UI claims office, or online at uiclaims.hawaii.gov.

Idaho

● EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Idaho Code §§ 72-1301 – 72-1385

GENERAL SUMMARY: To protect workers against economic insecurity due to unemployment, the Employment Security Law creates a state employment security fund from which weekly cash benefits are payable to eligible individuals who are temporarily without work but actively seeking new employment. Most Idaho employers are required to pay contributions to the fund if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other employer who (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) on any day in 20 or more different calendar weeks employed at least 10 workers for agricultural services, is required to pay contributions to the state employment security fund. Subject employers are liable for UI taxes on each employee's earnings in any calendar year, generally up to a taxable amount equal to the average annual wage of all covered workers in the state the previous year.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker is eligible to receive UI benefits if the claimant (1) has registered for work and is able to work, available for work and seeking work, (2) has earned more than an annually determined "minimum qualifying amount" of wages — in 2017, roughly \$1,872 — from covered employers during the peak quarter of the first four of the last five completed calendar quarters preceding the claim, and (3) has total wages for the four-quarter base period equal to at least 1'/4 times the high-quarter wages.

AMOUNT OF BENEFITS — In brief, an eligible worker's weekly benefit amount is computed to be 1/26 of the worker's high-quarter earnings over the four-quarter base period, up to a maximum amount tied to the state average weekly wage paid by covered employers in the preceding calendar year. With respect to any week of total or partial unemployment, the worker's actual unemployment compensation payment is the weekly benefit amount, minus any wages earned that week in excess of one-half the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — Farm labor contractors who are licensed under Idaho's farm labor contractor licensing law (see entry, Idaho — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration) are required to pay unemployment insurance taxes on behalf of the workers they employ. In the case of labor contractors who are not licensed under the state law, and who furnish workers to perform farm labor for a farm operator who is required to pay UI contributions, both the contractor and the farm operator are jointly responsible for paying the contributions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570). The Department is responsible for determining employer liability for UI taxes and for collecting contributions from liable employers. This agency also processes claims and administers the payment of benefits to eligible claimants. Any worker who is totally or partially unemployed may file an application for benefits online, at labor.idaho.gov/ClaimantPortal.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

■ UNEMPLOYMENT INSURANCE ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 405/100 - 405/3200

GENERAL SUMMARY: The Unemployment Insurance Act provides for the collection of contributions from most Illinois employers for deposit in the state unemployment trust fund, from which periodic cash benefits are paid to covered workers who are temporarily without employment. Most employers are required to pay contributions to the fund if they (1) pay at least \$1,500 in wages in any calendar quarter in the current or preceding calendar year, or (2) have at least one employee on some portion of a day in each of 20 or more calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Any agricultural employing unit which (1) paid cash wages of \$20,000 or more for agricultural services during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for any length of time in 20 or more calendar weeks in the current or preceding calendar year, is required to pay unemployment insurance contributions to the state fund. Contributions are computed on the first \$12,960 in wages paid by the employer to each employee during the calendar year, using an employer-specific tax rate determined annually by the state administering agency.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other jobless worker, is generally eligible for UI benefits if the state agency finds that the worker (1) has registered for work, (2) has filed a claim for benefits (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim, been paid wages for insured work equal to not less than \$1,600, at least \$440 of which must have been earned outside the peak-earnings quarter.

AMOUNT OF BENEFITS — With respect to any week of unemployment, an eligible claimant's weekly benefit amount is generally equal to 47 percent of the worker's prior average weekly wage (defined as total insured wages in the two quarters of the base period when wages were highest, divided by 26), but not to exceed 47 percent of the statewide average weekly wage. The actual sum payable to the claimant for the week is the weekly benefit amount (plus applicable dependents' allowances, explained below), minus that part of any wages earned that week in excess of 50 percent of the claimant's weekly benefit amount.

DEPENDENTS' ALLOWANCE — In the case of an eligible claimant with a non-working spouse, UI benefits will be increased by 9 percent of the worker's prior average weekly wage, provided that the total amount payable does not exceed 57 percent of the statewide average weekly wage. For a claimant with a dependent child or children, basic benefits are augmented by an amount equal to 17.2 percent of the worker's prior average weekly wage, up to a total benefit of 65.2 percent of the statewide average weekly wage.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Illinois Department of Employment Security, Springfield, Illinois 62702 (773-412-8427). The Department both enforces the collection of unemployment insurance contributions from employers subject to the Act and administers UI claims and benefit payments. Applications for unemployment benefits may be made at any local Employment Security office, or online at www.ides.illinois.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

■ INDIANA EMPLOYMENT AND TRAINING SERVICES ACT (UNEMPLOYMENT COMPENSATION)

STATUTORY CITATION: Ind. Code §§ 22-4-1-1 - 22-4-39.5-5

GENERAL SUMMARY: The Indiana Employment and Training Services Act requires employers in the state to pay contributions to the state unemployment insurance benefit fund, out of which weekly cash payments are made available to eligible workers who are temporarily unemployed. With some exceptions, employers are subject to UI taxes if they (1) employ one or more workers, or (2) paid at least \$1 in wages in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural employing units that (1) paid cash remuneration of \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in 20 or more different calendar weeks in the current or preceding calendar year, must pay contributions to the state employment security fund on behalf of their workers. In general, the amount of contributions payable is a function of the employer's unemployment insurance tax rate, which is determined each year by the state administering agency and applied against the first \$9,500 in wages paid that year to each of the employer's workers.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like most other jobless workers in Indiana, is generally eligible to receive unemployment compensation in a given week if he or she (1) has filed a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work, available for work, and making an effort to secure full-time work, (4) participates in required re-employment services and eligibility assessment activities, (5) has been unemployed for a waiting period of one week, and (6) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$4,200 from covered employment — at least \$2,500 of which must have been earned in the last two quarters — and earned total wages amounting to at least $1^{1}/2$ times the wages earned in the one quarter when earnings were highest.

Not later than the fourth week after the week a worker begins receiving unemployment benefits, he or she must schedule participation in an orientation to the services available through the Department's one-stop centers, and must complete the orientation not later than the sixth week.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is normally equal to 47 percent of the worker's average weekly wage over the four-quarter base period, up to a maximum amount of \$390.

SEASONAL WORKER PROVISIONS — With respect to a claim filed by a worker who has earnings from an employer regarded by the state agency as a seasonal employer, such seasonal earnings may be used to determine eligibility for unemployment benefits only if the claim is filed within the employer's designated normal seasonal employment period. Eligibility and benefits for a worker with seasonal wage credits who files a UI claim outside the employer's normal seasonal operating period are based entirely on the amount of wages earned from other insured employment, if any, during the four-quarter base period.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Indiana Department of Workforce Development, Indianapolis, Indiana 46204 (317-232-7676). This agency administers all aspects of the state unemployment insurance system, including determination of employer liability for UI contributions, processing of UI claims, adjudication of appeals, and payment of benefits. An application for benefits may be filed at any WorkOne Career Center, or online at https://uplink.in.gov/CSS/CSSLogon.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

STATUTORY CITATION: Iowa Code §§ 96.1 - 96.51

GENERAL SUMMARY: The Iowa Employment Security Law provides for the payment of weekly cash benefits to workers who are temporarily unemployed and actively seeking employment. Unemployment insurance benefits are paid from the state unemployment compensation fund, which is financed by mandatory assessments against most Iowa employers in proportion to the amount of taxable wages paid.

Most employers are required to pay state unemployment taxes if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every lowa farm operator or other agricultural establishment that (1) paid \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some portion of a day in 20 or more different calendar weeks in the current or preceding calendar year, is required to pay contributions to the state unemployment compensation fund on the workers' behalf. Under current law, an employer is liable for contributions with respect to the wages paid to each worker during the calendar year, up to a maximum taxable amount for each employee equal to 66½/3 percent of the statewide average annual wage paid to all lowa employees for insured work.

ELIGIBILITY FOR BENEFITS — Like workers in most other occupational groups, an unemployed farmworker is generally eligible for unemployment benefits in a particular week if the state agency finds that the claimant (1) has registered for work, (2) is able to work, is available for work, and is actively seeking work, (3) during the first four of the last five completed calendar quarters immediately preceding the claim, received insured wages equaling at least 1¹/₄ times the wages received during the quarter when earnings were highest, (4) earned wages from covered employment in two or more quarters of the four-quarter base period, and (5) earned at least \$1,480 in one of those two quarters and at least \$740 in another.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is calculated as a percentage of the claimant's high-quarter wages, the percentage varying according to the number of dependents. A claimant with no dependents is eligible for weekly benefits equal to 1/23 of peak-quarter wages, up to a maximum amount of 53 percent of the statewide weekly wage. For comparison, an unemployed worker with four dependents is entitled to 1/19 of peak-quarter wages, but no more than 65 percent of the statewide average weekly wage. During a week of partial unemployment, an eligible claimant would receive the weekly benefit amount, minus that portion of the week's earnings in excess of 1/4 of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Services Division, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-3896). This agency is responsible for the administration of the state unemployment insurance system, including determination of employer liability for UI taxation, determination of claimant eligibility for unemployment compensation, adjudication of employer and claimant appeals, and payment of benefits. UI claims may be filed at any local IowaWORKS Center, or online at https://uiclaims.iwd.iowa.gov/UIInitialClaim/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Kan. Stat. §§ 44-701 - 44-770

GENERAL SUMMARY: The Employment Security Law establishes a state employment security fund, into which mandatory unemployment insurance contributions collected from Kansas employers are deposited, and from which weekly cash benefits for eligible jobless workers are paid. Employers are generally required to pay contributions if they (1) paid \$1,500 or more in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment which (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers for agricultural labor, are required to pay unemployment insurance taxes to the state fund on their workers' behalf. An employer's contributions in a given calendar year are generally computed on the first \$14,000 paid that year to each of the employer's workers, applying a tax rate assigned by the state agency on the basis of the employer's recent UI claims history and other factors.

ELIGIBILITY FOR BENEFITS — An unemployed individual is generally eligible to receive unemployment benefits only if the state agency finds, in substantial part, that the claimant (1) has registered for work and continued to report to the state employment office, (2) is able to work and available for work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim, been paid total wages for insured work amounting to at least 30 times the claimant's weekly benefit amount (explained below) and has been paid wages in more than one quarter of the four-quarter base period.

AMOUNT OF BENEFITS — In general, an eligible claimant's weekly benefit amount is equal to 4.25 percent of the total insured wages received during the one quarter in the four-quarter base period in which such wages were highest. The weekly benefit amount may not, however, exceed 55 percent of the average weekly wages of all covered employees in the state, computed for the preceding calendar year, nor may such amount be less than 25 percent of the maximum weekly benefit. Each eligible claimant who is unemployed in a particular week is entitled to a payment equal to the weekly benefit amount, minus that part of any wages earned that week which exceeds 25 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Unemployment Insurance Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-575-1460).* This agency is responsible for determining UI tax liability of employers, enforcing the payment of contributions by liable employers, processing benefit claims by unemployed workers, adjudicating UI appeals by employers and claimants, and paying unemployment benefits. Claims may be filed by telephone, at 800-292-6333, or online at www.getkansasbenefits.gov/BenefitsStartMenu.aspx.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kentucky

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 341.005 - 341.990

GENERAL SUMMARY: The unemployment compensation law provides for the collection of contributions to the state unemployment insurance fund from employers in the state, and authorizes the payment of benefits from the fund to eligible workers who are temporarily unemployed. In general, the law requires employers to pay contributions to the unemployment insurance fund if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other employing units that (1) paid wages of \$20,000 or more in any calendar quarter in the current or preceding calendar year for agricultural labor, or (2) employed for some part of a day in each of 20 different calendar weeks 10 or more workers performing agricultural labor, must pay contributions to the state unemployment insurance fund. Employers are normally liable for contributions computed against the first \$10,500 in wages paid to each worker in a calendar year for covered employment, using a UI tax rate determined annually for each employer according to the employer's past claims experience and other factors.

ELIGIBILITY FOR BENEFITS — Under most circumstances, an unemployed worker in Kentucky is eligible to receive UI benefits only if the individual (1) has made a claim for benefits, (2) has registered for work, (3) is physically and mentally able to work, (4) is available for suitable work and making a reasonable effort to obtain work, and (5) during the first four of the last five completed calendar quarters immediately preceding the claim, earned at least \$750 in the one quarter when wages were highest, earned at least \$750 outside the peak quarter, earned at least 1½ times the peak-quarter wages for the entire four-quarter base period, and earned at least 8 times the weekly benefit amount (defined below) in the last 6 months of the base period.

AMOUNT OF BENEFITS — The weekly benefit amount payable to an eligible unemployed worker is generally equal to 1.3078 percent of the worker's total earnings over the four-quarter base period, but in no case less than \$39 or more than 55 percent of the average weekly wage for all insured employment in the state the previous calendar year. For any week of unemployment, an eligible claimant is entitled to receive the weekly benefit amount, minus 80 percent of any wages earned that week and certain miscellaneous deductions, if applicable.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. The crew leader is also deemed to be the employer where most members of the crew operate or maintain any mechanized equipment. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Employment and Training, Kentucky Department of Workforce Investment, Frankfort, Kentucky 40601 (502-564-5331). This agency is responsible for administering most aspects of the unemployment insurance system, including employer tax liability determinations and appeals, collection of UI taxes, benefit claims and appeals, and payment of benefits. Unemployed workers who believe they may be eligible for benefits may file a claim online, at uiclaims.des.ky.gov/ebenefit/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Unemployment Insurance Commission, Education and Workforce Development Cabinet, Frankfort, Kentucky 40621 (502-564-4849). The Unemployment Insurance Commission serves as an appeals board to hear and decide appeals to unemployment insurance determinations made by the primary administrative agency.

Louisiana

■ LOUISIANA EMPLOYMENT SECURITY LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:1471 – 23:1749.8

GENERAL SUMMARY: The Louisiana Employment Security Law establishes an unemployment compensation fund, requires most employers in the state to contribute to the fund in proportion to the wages they pay, and authorizes the payment of benefits from the fund to unemployed workers who have sufficient wage credits from insured employment and meet other benefit eligibility conditions. Most employers in the state must pay taxes to the UI fund if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some portion of a day in each of 20 different weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm or plantation operator or other agricultural establishment that (1) during any calendar quarter of the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 or more different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is liable for unemployment insurance taxes on behalf of its workers. Subject employers are taxed at a rate determined each year by the state administering agency, applied against the first \$7,000 to \$8,500 in wages paid to each worker during the calendar year, depending on the trust fund balance.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other claimant, is generally eligible to receive UI benefits if the state agency finds that the claimant (1) has registered for work and continued to report to the state employment office, (2) is able to work, available for work, and actively searching for work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned from insured work at least \$1,200 and at least 11/2 times the insured wages received during the one quarter in which wages were highest.

AMOUNT OF BENEFITS — An eligible worker's weekly benefit amount is equal to 1/25 of the worker's average wages over the four-quarter base period, multiplied by 1.05 and again by 1.15, up to a maximum weekly benefit amount of either \$247, or 66 1/3 percent of the statewide average weekly wage as of the preceding March 31, whichever is less; the minimum benefit amount for such workers is \$10. An eligible individual who is only partially unemployed in any week is entitled to a benefit equal to the weekly benefit amount, minus any wages earned that week in excess of \$50, or in excess of 50 percent of the weekly benefit amount, whichever is less.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Unemployment Insurance Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (toll-free 866-783-5567). The Department has control over all aspects of the unemployment insurance program, including determination of employer liability for UI taxes, collection of taxes from subject employers, processing of UI claims, hearings and decisions on appeals by employers and claimants, and payment of benefits. Jobless workers wishing to apply for benefits may file online at www.laworks.net, or by phone at 866-783-5567.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

■ EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 1041 - 1268

RELATED REGULATIONS: 12 172 Me. Code R. Ch. 6

GENERAL SUMMARY: The Employment Security Law establishes a state unemployment compensation fund, financed from unemployment insurance taxes collected from most employers in the state, and authorizes the payment of cash benefits to temporarily unemployed workers who have sufficient wage credits from recent employment with covered employers and meet other eligibility requirements. In general, any employer who (1) paid at least \$1,500 in wages during any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different calendar weeks this year or last, must pay UI taxes to the fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Farm operators and other agricultural establishments in Maine are required to pay contributions to the state unemployment compensation fund if they (1) paid wages of \$20,000 or more for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year. In general, unemployment insurance taxes are payable with respect to the first \$12,000 of wages paid to each employee during the calendar year, at a tax rate determined annually by the state administering agency in accordance with the employer's claims history.

ELIGIBILITY FOR BENEFITS — As a rule, an unemployed individual is eligible to receive UI benefits in a particular week only if the worker (1) has filed a claim for benefits, (2) has registered for work and continued to report to the state employment office, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim, received total wages equal to or exceeding 6 times the statewide annual average weekly wage for insured work, and received wages equal to or exceeding 2 times the statewide annual average weekly wage in each of 2 different quarters of the four-quarter base period.

AMOUNT OF BENEFITS — Each eligible claimant who is totally unemployed in a particular week is entitled to receive benefits that week equal to 1/22 of the insured wages earned during the two quarters of the worker's four-quarter base period in which such wages were highest. The weekly benefit amount may not exceed 52 percent of the statewide annual average weekly wage. For any week of partial unemployment, an eligible claimant will normally receive a sum equal to the weekly benefit amount, minus that part of the week's earnings which is in excess of \$25.

DEPENDENTS' ALLOWANCE — In addition to the claimant's basic benefits, an allowance of \$10 for each unemancipated child under the age of 18 is generally payable also. In no case, however, may dependents' allowances exceed 50 percent of the individual's weekly benefit amount.

SEASONAL WORKER PROVISIONS — Jobless workers who earned all of their wage credits during the four-quarter base period from work in an industry designated by the state agency as "seasonal" (including many agricultural operations) are generally eligible for benefits only to the extent that they are unemployed during the seasonal period or periods when that industry is normally in operation, as determined by the state agency. On the other hand, benefits to unemployed workers with both seasonal and non-seasonal earnings are not restricted to a particular time of year, but outside the normal period of operation of the seasonal industry, eligibility and the amount of benefits are determined solely on the basis of the wage credits earned from non-seasonal work.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Unemployment Compensation, Maine Department of Labor, Augusta, Maine 04333 (toll-free 800-593-7660). This agency is responsible for administering the state unemployment insurance program, including tax liability and collection matters, the claims process, and the payment of benefits from the unemployment compensation fund. Application for benefits may be made online at www.maine.gov/labor/unemployment/, or by phone at 800-593-7660.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 8-101 - 8-1608

GENERAL SUMMARY: The Unemployment Insurance Law authorizes the payment of temporary cash benefits to jobless workers in Maryland who have recent earnings from covered employment and meet other eligibility tests, requires most employers in the state to pay unemployment insurance contributions in proportion to the amount of wages they pay, and establishes a state unemployment insurance fund into which UI contributions are deposited and from which UI benefits are paid. With some exceptions, every employer who employs at least one worker for any part of a day must pay taxes to the UI fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every Maryland farm operator or other agricultural establishment that (1) during any calendar quarter of the current or preceding calendar year pays cash remuneration of \$20,000 or more for agricultural labor, or (2) for any portion of a day in each of 20 different calendar weeks during the current or preceding calendar year employs at least 10 workers in agricultural labor, is required to pay contributions into the state unemployment insurance fund. Generally only the first \$8,500 in wages paid to each individual worker during the calendar year is utilized in the computation of the employer's contributions, which are figured using a tax rate assigned annually by the state administering agency on the basis of the employer's UI claims experience, among other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed individual is, in general, eligible to receive UI benefits only if the state agency finds that the worker (1) has registered for work and continued to report to the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned the minimum qualifying wages from insured work specified in the law and earned at least \$1,176 in the one quarter of the four-quarter base period in which total wages were highest.

AMOUNT OF BENEFITS — An eligible worker is entitled to the weekly benefit amount specified in the statutory schedule of benefits, according to the worker's high-quarter earnings in the four-quarter base period. The weekly benefit amount currently may range from \$50 to \$430. The net UI benefit payment for a particular week is generally equal to the worker's weekly benefit amount, plus a dependents' allowance of \$8 each for up to 5 of the claimant's children under 16 years of age, minus any wages received by the claimant that week in excess of \$50.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Unemployment Insurance, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21202 (410-767-2483). The Department administers all aspects of the state unemployment insurance system, including determinations of employer liability for payment of UI contributions, the collection of contributions from liable employers, the processing of UI claims, the adjudication of employer and claimant appeals, and the payment of benefits. Applications for unemployment compensation may be filed online at

https://secure-2.dllr.state.md.us/NetClaims/Welcome.aspx, or by phone at 877-293-4125 (toll-free).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 151A, §§ 1 - 74

GENERAL SUMMARY: The Unemployment Insurance Law requires most employers in Massachusetts to pay contributions to the state unemployment compensation fund, and authorizes the payment of monetary benefits from the fund to unemployed workers who meet specified earnings and other eligibility requirements. In general, employers are required to pay UI taxes if they have at least one worker performing covered services and pay at least \$1,500 in wages in any calendar quarter.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers that (1) during any calendar quarter of the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) employed 10 or more workers for agricultural labor on some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, are liable for state unemployment insurance taxes on behalf of their employees. The amount of contributions due from each subject employer is normally equal to the employer's annually assigned tax rate, multiplied by the first \$15,000 in wages paid to each employee during the calendar year.

ELIGIBILITY FOR BENEFITS — In order to be eligible for unemployment insurance benefits, an individual generally (1) during the four calendar quarters immediately preceding the claim, must have earned at least \$4,300 in subject wages and at least 30 times the weekly benefit rate, explained below, (2) must be able to work, available for work and actively seeking work, and (3) must have given notice of his or her unemployment by registering either in a public employment office or in such other manner as the state administering agency prescribes.

AMOUNT OF BENEFITS — In general, a farmworker or other unemployed claimant who is otherwise eligible for benefits is entitled to a weekly benefit equal to 50 percent of the worker's average weekly earnings in the two high-earnings quarters during the four-quarter period immediately prior to filing a claim; the maximum benefit is currently \$742 a week. An eligible claimant's actual UI payment for a particular week is equal to the weekly benefit amount, minus that part of the week's earnings, if any, in excess of 1/3 of the weekly benefit amount.

DEPENDENTS' ALLOWANCE — In addition to the basic UI benefit described above, a claimant will normally receive for each week of unemployment the sum of \$25 for each dependent child under the age of 18 for whom the claimant provides whole or main support, up to a total dependency benefit of 50 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Unemployment Assistance, Boston, Massachusetts 02114 (617-626-6500). This agency is responsible for processing unemployment compensation claims and appeals, and for the payment of benefits. The agency also determines the liability of employers for UI contributions and enforces the collection of contributions from those employers found liable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

→ MICHIGAN EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 421.1 - 421.75

GENERAL SUMMARY: The Michigan Employment Security Act establishes an unemployment compensation fund, into which most employers in the state are required to pay contributions roughly proportional to the amount of covered wages paid, and from which weekly cash benefits are paid to temporarily unemployed workers who have sufficient earnings from covered employment and meet other eligibility criteria.

With some exceptions, employers are required to pay contributions to the UI fund if they (1) have at least one employee in each of 20 different calendar weeks in the calendar year, or (2) pay wages totaling \$1,000 or more within the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other employing unit which (1) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers for agricultural services, or (2) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural services, must pay contributions to the state unemployment compensation fund. Normally, only the first \$9,500 in wages paid to each worker during the calendar year is counted in computing the amount of the employer's unemployment insurance tax liability.

ELIGIBILITY FOR BENEFITS — A farmworker or other unemployed individual not otherwise disqualified is generally eligible to receive UI benefits if the state administering agency finds that the worker (1) has registered for work, is seeking work, and has continued to report to the state employment office, (2) has made a claim for benefits, (3) is able and available to perform suitable full-time work, (4) has, during the first four of the last five calendar quarters immediately preceding the filing of a claim, earned wages totaling not less than 1.5 times the wages earned during the one quarter when earnings were highest, and (5) earned wages in 2 or more quarters totaling at least 20 times the state average weekly wage.

AMOUNT OF BENEFITS — In general, the weekly benefit rate for an eligible claimant is equal to 4.1 percent of the claimant's high-quarter earnings, as explained above, plus \$6 for each of the claimant's dependents up to 5, but in no case may the weekly benefit exceed \$362. With respect to a week of total unemployment, the individual is entitled to receive the full weekly benefit rate; in any week of partial unemployment, the full weekly benefit amount is reduced by 50 cents for each whole dollar of earnings.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Unemployment Insurance Agency, Detroit, Michigan 48202 (616-356-0038). This agency administers the state unemployment insurance system and hence is responsible for determining the liability of employers for UI contributions, collecting contributions from subject employers, determining the eligibility of claimants for UI benefits, and making UI payments. Claims by unemployed workers may be filed online, at www.michigan.gov/uia/, or by phone, at 866-500-0017.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

→ MINNESOTA UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Minn. Stat. §§ 268.001 - 268.98

GENERAL SUMMARY: The Minnesota Unemployment Insurance Law establishes an unemployment insurance trust fund, compels most employers in the state to make contributions to the fund in proportion to the magnitude of their payroll, and authorizes the payment of cash benefits from the fund to temporarily jobless workers who have sufficient wage credits from covered employment and meet other eligibility criteria. Employers are generally required to pay contributions to the trust fund if they have had one or more employees during the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other establishment that (1) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 4 or more workers in agricultural labor, regardless of whether they were employed at the same time, or (2) during any calendar quarter of the current or preceding calendar year paid wages of \$20,000 or more for agricultural labor, is required to pay unemployment insurance taxes to the state. With respect to each worker on the payroll, a subject employer is generally liable for UI taxes equal to the employer's annually assigned tax rate, multiplied by the worker's wages through the calendar year up to a limit equal to 60 percent of the preceding year's statewide average annual wage among all UI-covered employees.

ELIGIBILITY FOR BENEFITS — An individual is generally eligible to receive benefits for any week of unemployment if the state agency finds that the person (1) has registered for work, (2) has made a claim for benefits, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters preceding the initial claim, earned total wages of at least 5.3 percent of the state's average annual wage.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is generally equal to the higher of (1) 50 percent of the applicant's average weekly wage during the four-quarter base period, up to a maximum of 66 ½/3 percent of the state's average weekly wage, or (2) 50 percent of the applicant's weekly wage during the one quarter when wages were highest, up to a maximum of 43 percent of the state's average weekly wage. The actual amount of the UI benefit payment in any week is normally equal to the person's weekly benefit amount, minus that part of the week's part-time earnings, if any, in excess of 50 percent of the earnings.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Program, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota 55101 (651-296-3644; toll-free 877-898-9090). This agency is responsible for administration of the unemployment insurance program in the state, including tax liability determinations and appeals, tax collection, claims processing and appeals, and payment of benefits. Workers who are temporarily without employment and have worked for employers who have paid UI contributions on their behalf may file a claim for benefits online, at www1.uimn.org/ui_applicant/login.do.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

■ MISSISSIPPI EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Miss. Code §§ 71-5-1 - 71-5-543

GENERAL SUMMARY: The Mississippi Employment Security Law requires most employers in the state to pay contributions into the state unemployment insurance fund, which is established under the law solely for the payment of cash benefits to workers who are temporarily out of work and have sufficient past earnings from UI-covered employment to qualify. With some exceptions, every employer who (1) pays \$1,500 or more in wages in any calendar quarter of the current or preceding calendar year, or (2) employs at least one person for some part of a day in each of 20 different calendar weeks this year or last, must pay contributions to the UI fund on their employees' behalf.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every agricultural employer who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, must pay unemployment insurance contributions to the state. Subject employers are generally liable for UI taxes computed against the first \$14,000 in wages paid to each worker during the calendar year.

ELIGIBILITY FOR BENEFITS — Unless otherwise disqualified, a farmworker, like any other unemployed individual, is generally eligible to receive UI benefits if the state administering agency finds that the worker (1) has registered for work and continued to report to the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim for benefits, earned wages for insured work equal to no less than 40 times the worker's weekly benefit amount (explained below), earned insured wages in at least 2 quarters of the four-quarter base period, and earned insured wages amounting to at least 26 times the minimum weekly benefit amount (or \$780, at the current \$30 minimum) during the one quarter of the base period in which the worker's earnings were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is roughly equal to 1/26 of the claimant's total wages for insured work paid during the high-earnings quarter of the four-quarter base period. In no case, however, may the weekly benefit amount exceed (1) \$235, or (2) 60 percent of the statewide average weekly wage for the preceding year, whichever is less; as noted above, the minimum weekly benefit amount is \$30. For any week of unemployment, an eligible claimant is entitled to a payment equal to the weekly benefit amount, minus any earnings from part-time employment that week in excess of \$40.

SEASONAL WORKER PROVISIONS — Workers who have earnings from employment in certain designated seasonal industries are subject to special limitations on the periods during which unemployment compensation is payable. The only agriculturally related industry currently classified as seasonal is cotton ginning.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Mississippi Department of Employment Security, Jackson, Mississippi 39215 (601-321-6000; toll-free 888-844-3577). The Department is responsible for administering all aspects of the state's unemployment insurance system, including determination of employer liability for UI taxes, collection of UI taxes, processing of UI claims, adjudication of liability and claims appeals, and payment of benefits. Applications for unemployment compensation may be filed online, at https://accessms.mdes.ms.gov/accessms/enter.do.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

■ UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Mont. Code §§ 39-51-101 - 39-51-3208

GENERAL SUMMARY: The Unemployment Insurance Law establishes a state unemployment insurance fund, into which employers in Montana are required to pay contributions in rough proportion to their wage and salary payments, and from which weekly cash benefits are paid to workers who are temporarily unemployed and who meet the minimum earnings and other eligibility requirements prescribed in the law. In general, employers are required to pay UI taxes if they paid at least \$1,000 in wages in the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other agricultural establishment that (1) pays \$20,000 or more in cash for agricultural labor in any quarter of the current or preceding calendar year, or (2) employs 10 or more workers in agricultural labor on at least one day in each of 20 different weeks during the current or preceding calendar year, or (3) has a total non-agricultural payroll in excess of \$1,000 in the current or preceding calendar year, must pay unemployment insurance contributions to the state on behalf of its agricultural employees. A subject employer is generally liable for UI taxes on each worker's wages over the calendar year, up to a per-worker taxable wage limit of (1) 80 percent of the statewide average annual wage, or (2) the federal taxable wage base (currently \$7,000), whichever is higher.

ELIGIBILITY FOR BENEFITS — In brief, an unemployed worker is eligible for unemployment benefits if the state administering agency determines that the worker (1) has filed a claim and continued to report to the Job Service Montana office, (2) is able to work, available for work, and seeking work, (3) has been unemployed for a waiting period of one week, and (4) has met either of the following earnings requirements over the first four of the last five completed calendar quarters immediately preceding the claim:

- (a) Earned total wages of at least 11/2 times the wages earned in the one quarter when earnings were highest, but not less than 7 percent of the statewide average annual wage.
- (b) Earned at least 50 percent of the statewide average annual wage.

AMOUNT OF BENEFITS — The weekly benefit amount for an eligible claimant is generally equal to 1 percent of the worker's total wages over the four-quarter base period, or 1.9 percent of the total wages earned in the 2 calendar quarters when wages were highest. In no event may the weekly benefit amount exceed 66.5 percent of the statewide average weekly wage for covered employment in Montana for the preceding year, nor may the amount be less than 19 percent of the average weekly wage. For any week of total or partial unemployment, an eligible claimant is generally entitled to a payment equal to the weekly benefit amount, minus 50 percent of any wages earned that week in excess of one-fourth of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-3783). Unemployment insurance tax liability determinations, collection of UI taxes, benefit claim determinations, employer and claimant appeals, and benefit payments are all under the administrative control of the Department. UI claims may be filed online, at app.mt.gov/ui4u/index.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

■ EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-601 - 48-683

GENERAL SUMMARY: The Employment Security Law establishes an unemployment compensation fund for Nebraska, into which most employers in the state are required to pay contributions on behalf of their employees, and from which cash benefits are paid to unemployed workers who have earned sufficient wage credits from employers who have contributed to the fund. In general, employers must pay UI taxes on behalf of their workers if they (1) employ at least one person for some part of a day in each of 20 different calendar weeks within the current or preceding calendar year, or (2) have paid wages of \$1,500 or more in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is required to pay unemployment insurance contributions to the state fund. Normally, subject employers must pay UI taxes on the first \$9,000 in wages paid to each worker during the calendar year, at a tax rate computed annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In general, a worker is eligible to receive unemployment benefits if the state agency finds that the individual (1) has registered for work and continued to report to the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has earnings from insured employment, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, that equal or exceed an annually adjusted minimum amount — about \$4,146 in 2017 — including no less than \$1,850 in one such quarter and no less than \$800 in another.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is generally equal to one-half of the worker's average weekly earnings during the one quarter of the four-quarter base period in which wages were highest. The weekly benefit amount, however, may not exceed one-half of the annual average weekly wage for the state as a whole. The UI payment in a given week of partial or total unemployment is generally equal to the weekly benefit amount, unless the claimant's earnings from part-time work exceed one-fourth that sum, in which case the claimant is entitled to receive the weekly benefit amount minus that portion of the week's earnings that exceed one-fourth the benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Unemployment Insurance, Nebraska Department of Labor, Lincoln, Nebraska 68509 (402-458-2500). The Department has administrative control over the unemployment insurance system in the state, including the determination of employer liability for UI contributions, collection of contributions from subject employers, determination of eligibility for benefits, adjudication of tax and benefit appeals, and payment of benefits. Applications for unemployment compensation may be filed online, at https://neworks.nebraska.gov/vosnet/Default.aspx.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 612.010 - 612.760

GENERAL SUMMARY: The Unemployment Compensation Law provides for the payment of cash benefits to persons who are temporarily out of work and who have recent earnings from insured employment and meet other eligibility requirements. Benefits are financed by the collection of unemployment insurance contributions from Nevada employers, who pay into the state unemployment compensation fund a proportionate share based on each employer's tax rate and taxable wages. In general, an employer who pays \$225 or more in wages in any calendar quarter, and has at least one employee during that period, is obligated to pay UI contributions.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other employing unit that (1) paid cash agricultural wages of \$20,000 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 agricultural workers for some part of a day in 20 or more different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state fund. The standard rate of contributions is normally 2.95 percent of the wages paid to each employee during the calendar year, up to a per-worker wage limit equal to 66 °/3 percent of the statewide average annual wage for covered employment for the preceding year.

ELIGIBILITY FOR BENEFITS -

Wage Requirements — To be eligible for UI benefits, an unemployed worker must, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, (1) have earned at least \$400 in the one quarter of the four-quarter base period in which wages were highest, and (2) meet one or the other of the following conditions:

- (a) Have total wages equal to or exceeding 11/2 times the high-quarter earnings.
- (b) Have wages in each of at least three of the four quarters of the base period.

Other Requirements — To receive unemployment benefits, an unemployed worker must (1) be filing a weekly claim as required, (2) be able to work and available for work, (3) be actively seeking work, (4) be willing to accept suitable work, (5) keep a weekly work search record, and (6) register for work, unless exempt by law.

AMOUNT OF BENEFITS — A person's weekly benefit amount is roughly equal to 1/25 of the worker's high-quarter earnings during the four-quarter base period, but in no case may the weekly benefit amount be less than \$16 or more than half of the statewide average weekly wage for the preceding year. Each eligible claimant who is unemployed in any week is entitled to a UI payment equal to the weekly benefit amount, minus 75 percent of any wages earned from part-time employment that week.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Security Division, Nevada Department of Employment, Training and Rehabilitation, Carson City, Nevada 89713 (775-684-0420). The Unemployment Compensation Law assigns the Division responsibility for the determination of employers' liability for UI contributions, the collection of contributions from liable employers, the determination of eligibility for benefits by unemployed workers, the payment of benefits, and the adjudication of employer and benefit appeals. UI claims may be filed by phone, at 888-890-8211, or online at http://ui.nv.gov/css.html.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 282-A:1 - 282-A:180

GENERAL SUMMARY: New Hampshire's unemployment compensation law provides for the payment of periodic cash benefits to workers who are temporarily out of work and who have earned sufficient wage credits from insured employment and meet other eligibility criteria. Unemployment benefits are financed by contributions paid by most employers in the state, assessed in proportion to their taxable payroll.

With some exceptions, employers are required to pay UI taxes if they (1) employ one or more individuals for some portion of a day in each of 20 different calendar weeks in either the current or preceding calendar year, or (2) pay gross wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Liability for payment of UI taxes extends only to those agricultural employers who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed in agricultural labor 10 or more workers. Only the first \$14,000 of wages paid in a calendar year to each worker by a covered employer is subject to state UI taxation.

ELIGIBILITY FOR BENEFITS — Subject to numerous other limitations, workers who meet the law's earnings requirements, and who are without work but are available for and actively seeking employment, are eligible for weekly unemployment insurance benefits. Generally, to qualify for benefits in New Hampshire, a worker must have earned at least \$1,400 in each of two calendar quarters during the first four of the last five completed calendar quarters immediately preceding the claim (the "base period").

AMOUNT OF BENEFITS — For eligible workers who are totally unemployed, the amount of the weekly benefits is specified in the statute and depends on the worker's total annual earnings over the four-quarter base period; the amount currently ranges from \$32 to \$427 per week. Weekly benefit payments are generally equal to the weekly benefit amount, minus any wages received that week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Compensation Bureau, New Hampshire Employment Security, Concord, New Hampshire 03301 (603-228-4031). This agency is responsible for determining employers' liability for payment of unemployment insurance contributions, for collecting contributions from liable employers, for processing UI claims and appeals, and for issuing UI benefit payments. Unemployed workers who believe they are eligible for benefits may file a claim online, at nhuis.nh.gov/claimant/login.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 43:21-1 - 43:21-71

GENERAL SUMMARY: The Unemployment Compensation Law provides for the payment of weekly cash benefits to individuals who are temporarily out of work and who have certain minimum earnings from insured employment and meet other eligibility requirements. The statute establishes a state unemployment compensation fund, into which most employers and employees in New Jersey are compelled to pay contributions and from which all benefits to eligible unemployed workers are paid. In general, employers are required to pay UI contributions if they paid wages totaling \$1,000 or more in the current or preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Each farm operator or other agricultural employing unit that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, is required to pay unemployment insurance contributions to the state unemployment compensation fund. The amount of an employer's contributions is figured as an annually assigned percentage of each worker's wages, up to a per-worker wage limit normally equal to 28 times the statewide average weekly wage for UI-covered employment.

WORKER CONTRIBUTIONS — Farmworkers who are employed by an establishment subject to the Unemployment Compensation Law, as described above, are generally required to contribute 0.3825 percent of their wages (up to the above-mentioned taxable limit) to the state UI fund. The worker's share of UI contributions is deducted and withheld from earnings by the employer, who must record the transaction in the payroll record and forward withholdings to the state agency, along with the employer's share.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker is generally eligible for UI benefits if the individual (1) has filed a claim and continues to report to the state employment office, (2) is able to work, available for work, and actively seeking work, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the claim for benefits, met at least *one* of the following conditions:

- (a) Earned at least 20 times the state minimum wage in at least 20 different calendar weeks.
- (b) Earned not less than 1,000 times the state minimum wage.
- (c) Performed at least 770 hours of agricultural labor.

AMOUNT OF BENEFITS — The weekly benefit rate for any week of unemployment is defined roughly as 60 percent of the claimant's average weekly wage over the four-quarter base period. The weekly benefit rate will be increased by 7 percent for the worker's first dependent and 4 percent each for the next two dependents, if any, but in no case may the weekly benefit rate exceed 56°/3 percent of the statewide average weekly wage for covered employment. The claimant's actual benefit payment for any week is generally equal to the weekly benefit rate, minus (1) any part-time earnings that week which exceed 20 percent of the weekly benefit rate, or (2) \$5, whichever deduction is greater.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460). The Department is responsible for administration and enforcement of the state's unemployment insurance program, including tax liability and benefit eligibility determinations, collection of contributions, and payment of benefits. UI claims may be filed online, at njsuccess.dol.state.nj.us/njsuccess/html/fileAClaimHomeContd.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

● UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.M. Stat. §§ 51-1-1 - 51-1-59

GENERAL SUMMARY: The Unemployment Compensation Law authorizes the payment of weekly cash benefits to workers who are temporarily jobless, and for that purpose requires most employers in the state to contribute to the unemployment compensation fund in proportion to their taxable payroll. In general, employers are required to pay UI taxes if they (1) paid wages of \$450 or more for non-agricultural employment in any calendar quarter of the current or preceding calendar year, (2) paid wages of \$1,000 or more for domestic service, or (3) employed at least one worker in non-agricultural services for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash remuneration of \$20,000 or more for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed in agricultural labor 10 or more workers for any part of a day in 20 or more different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state. Employers liable for contributions generally pay an amount equal to the employer's state-assigned tax rate, multiplied by the wages paid to each employee during the calendar year, up to a per-worker wage limit equal to 60 percent of the statewide average annual earnings.

ELIGIBILITY FOR BENEFITS — Like any other claimant, an unemployed farmworker not otherwise disqualified is eligible to receive unemployment compensation only if he or she (1) has made a claim for benefits, (2) has registered for work and continued to report at the state employment office, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding application for benefits, earned wages from insured employment in at least two of those four quarters.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is defined as 53.5 percent of the average weekly wage for insured work paid to the claimant in the one quarter of the four-quarter base period mentioned above when earnings were highest. In no case, however, may the benefit amount may be less than 10 percent or more than 53.5 percent of the statewide average weekly wage for insured work. The actual payment for any given week of partial or total unemployment is equal to the weekly benefit amount, minus that part of any wages earned that week which exceeds 1/5 of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Bureau, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (toll-free 877-664-6984). The Department is in charge of the state's unemployment insurance system, including determining employer liability for UI contributions, collection of contributions, determining eligibility for UI benefits, and making benefit payments. Hearings involving disagreements over tax liability and benefit eligibility are also part of the Department's role in the UI program. Unemployment compensation claims may be filed by phone, at 877-664-6984, or online at www.jobs.state.nm.us.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

■ UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: N.Y. Labor Law §§ 500 - 643

GENERAL SUMMARY: The Unemployment Insurance Law establishes a state unemployment insurance fund, into which most employers in New York are required to pay contributions in rough proportion to their payroll volume, and from which temporary cash benefits are authorized to be paid to workers who have recent earnings from insured employment but are unable to secure full-time work. With some exceptions, employers are liable for payment of UI contributions if they pay \$300 or more in wages in any calendar quarter.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other establishment is liable for unemployment insurance contributions if the establishment (1) has paid cash remuneration for agricultural labor amounting to \$20,000 or more in a calendar quarter, or (2) has employed 10 or more workers in agricultural labor on at least one day in each of 20 different calendar weeks in the current or preceding calendar year, or (3) is required to pay federal unemployment insurance taxes with respect to agricultural labor. The amount of an employer's contributions is generally figured as an annually prescribed percentage of the wages paid to each worker employed during the year, up to a taxable wage limit defined in the statute (currently \$10,900).

ELIGIBILITY FOR BENEFITS — In brief, UI benefits may be paid only to a claimant who (1) has filed a claim for benefits, (2) is ready, willing and able to work, (3) is not on paid vacation or holiday status, (4) is making an active search for work, (5) is not subject to any disqualifications or suspensions, and (6) meets all three of the following conditions:

- (a) During the first four of the last five completed calendar quarters immediately preceding the claim (the "base period"), had earnings in at least two of the four quarters.
- (b) During the four-quarter base period, earned total wages of at least 11/2 times the amount earned during the one quarter when earnings were highest.
- (c) During the one quarter of the base period when earnings were highest, earned total wages of at least 221 times the state hourly minimum wage.

AMOUNT OF BENEFITS — The amount of weekly benefits to which an eligible claimant is entitled depends on the claimant's earnings in the high quarter of the four-quarter base period mentioned above, but is typically 1/25 or 1/26 of that sum. Benefit rates currently range from a minimum of \$100 to a maximum of \$430.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, New York State Department of Labor, Albany, New York 12240 (518-457-5713). Administrative authority over the unemployment program, including both the taxation and benefits provisions, is vested exclusively in the Department. Any question or complaint regarding either the liability of employers for payment of UI contributions on their workers' behalf, or the eligibility of workers for benefits, may be directed to this agency. UI claims may be filed by phone, toll-free at 888-209-8124, or online at https://applications.labor.ny.gov/Individual/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

STATUTORY CITATION: N.C. Gen. Stat. §§ 96-1 - 96-40

GENERAL SUMMARY: The Employment Security Law establishes a state unemployment insurance fund and requires most employers in the state to pay contributions to the fund on behalf of their employees. In turn, workers who have earned sufficient wage credits from insured employment and who meet other eligibility criteria are entitled to weekly benefits paid from the fund at times of temporary unemployment. With some exceptions, employers are required to pay UI contributions if they (1) paid wages of \$1,500 or more during any calendar quarter in the current or preceding calendar year, or (2) employed at least one person for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid \$20,000 or more for agricultural labor, or (2) for any part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed at least 10 individuals in agricultural labor, must pay contributions to the unemployment insurance fund. The amount of contributions payable is equal to the employer's wage expenditures for the year (subject to an annually prescribed per-worker wage limit), multiplied by the employer's assigned tax rate.

ELIGIBILITY FOR BENEFITS — An unemployed worker is generally eligible to receive benefits only if the state agency finds that the worker (1) has registered for work at the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned wages in covered employment in at least two of the four quarters, and (5) during the same four-quarter period, earned at least 6 times the statewide average weekly wage for UI-covered employment.

AMOUNT OF BENEFITS — For any week of unemployment, an eligible claimant is entitled to a weekly benefit roughly equal to the amount obtained by dividing the claimant's total earnings in the last two quarters of the four-quarter base period by 52. If the claimant has any earnings from part-time employment that week, that portion of the week's part-time earnings which exceeds 20 percent of the claimant's weekly benefit amount is subtracted from the benefit amount otherwise payable.

SEASONAL WORKER PROVISIONS — Workers who, prior to a claim for unemployment benefits, earned 25 percent or more of their wages from a pursuit designated by the state agency as seasonal (which may include many agricultural job activities) are subject to special rules for determining both eligibility for and the amount of UI benefits. In general, seasonal earnings may be counted in the benefit computations outlined above only with respect to unemployment that occurs during the designated active period or periods when seasonal operations are normally carried on. During any other time of year, UI eligibility and benefits may be figured using the worker's non-seasonal wages only.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Employment Security, North Carolina Department of Commerce, Raleigh, North Carolina 27611 (919-707-1000; toll-free 888-737-0259). DES has complete responsibility for operation of the unemployment insurance system in the state, including determination of employer liability for UI contributions, collection of contributions from liable employers, determination of worker eligibility for UI benefits, payment of benefits, and adjudication of liability and benefit appeals. Claims may be filed online, at www.ncesc.com.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

NORTH DAKOTA UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 52-01-01 - 52-07.1-09

GENERAL SUMMARY: The North Dakota Unemployment Compensation Law establishes a state unemployment compensation fund, into which most employers are compelled to pay contributions in proportion to their taxable payroll and from which cash benefits are paid to temporarily jobless workers who have recent earnings from insured employment. The requirement to pay UI taxes on their workers' behalf generally applies to employers who (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one person for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Unemployment insurance contributions are payable by each farm operator or other agricultural establishment that (1) paid cash remuneration of \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year. The amount of an employer's contributions is figured as an annually assigned percentage of the total wages paid to each employee over the calendar year, up to a per-worker wage limit equal to 70 percent of the statewide average annual payroll.

ELIGIBILITY FOR BENEFITS — An unemployed individual not otherwise disqualified is eligible to receive unemployment benefits only if the state administering agency finds that the worker (1) has made a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work, available for suitable work, and actively seeking work, (4) has been unemployed for a waiting period of one week, (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned wages for insured work in at least two such quarters totaling not less than $1^{\circ}/2$ times the earnings in the one quarter in which the worker's wages were highest, and (6) has a weekly benefit amount, discussed below, equal to at least \$43.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is roughly defined as 1/65 of the sum of (1) the worker's total wages for insured work paid during the two quarters of the four-quarter base period in which wages were highest, and (2) one-half the wages paid during the third-highest quarter. With respect to a particular week of unemployment, an eligible claimant is entitled to a UI payment equal to the worker's weekly benefit amount, minus any wages earned from part-time employment that week in excess of 60 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Tax and Field Services, Job Service North Dakota, Bismarck, North Dakota 58506 (701-328-2814). The Job Service administers all aspects of the unemployment compensation program, including determination of UI tax liability and collection of UI taxes from liable employers, determination of eligibility for UI benefits and payment of benefits to eligible unemployed workers, and resolution of appeals by employers and workers. UI claims may be filed by automated phone service, at 701-328-4995, or online at https://apps.nd.gov/jsnd/uiiaclaims/login.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4141.01 - 4141.99

RELATED REGULATIONS: Ohio Admin. Code 4141-29-02

GENERAL SUMMARY: The unemployment compensation law establishes a state unemployment compensation fund, financed by a tax levied against most Ohio employers in rough proportion to the amount of wages paid for insured employment. The fund supports the payment of weekly cash benefits to temporarily unemployed workers who have recent earnings from insured employment and meet other eligibility criteria. With some exceptions, employers are required to pay unemployment taxes if they (1) employed at least one person for some part of a day in each of 20 or more different calendar weeks in the current or preceding calendar year, or (2) paid at least \$1,500 in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or crew leader who (1) during any calendar quarter of the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay contributions to the state unemployment compensation fund. The amount of an employer's contributions is determined by the total wages paid to all workers employed during the year (up to a taxable wage limit of \$9,000 per worker), multiplied by the employer's unemployment insurance tax rate, prescribed by the state administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In general, no one is entitled to UI benefits unless he or she (1) has filed an application for determination of benefit rights, (2) has made a claim for benefits, (3) has properly registered for work, (4) is able to work, available for suitable work, actively seeking work, and unable to obtain suitable work, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, worked at least 20 weeks for an employer subject to the unemployment compensation law and earned an average weekly wage of not less than 27.5 percent of the statewide average weekly wage over those 20 weeks.

AMOUNT OF BENEFITS — For any week of total unemployment, benefits are payable to an eligible claimant at a weekly benefit amount equal to 50 percent of the claimant's average weekly earnings from UI-insured employment over the four-quarter base period mentioned above. However, the weekly benefit amount currently may not exceed \$443 for a claimant with no dependents, \$537 for one or two dependents, or \$598 for three or more. With respect to a week of partial unemployment, the claimant is generally entitled to a UI payment equal to the weekly benefit amount, minus that part of the week's part-time earnings which exceeds 20 percent of the weekly benefit amount.

SEASONAL WORKER PROVISIONS — The eligibility of a worker to receive unemployment benefits, as well as the amount of such benefits, is subject to special rules whenever the worker reports any earnings from seasonal employment in a seasonal industry, which may include many agricultural operations. As a general rule, workers whose only qualifying wages were earned in a seasonal industry are eligible for benefits only for unemployment which occurs during the time that same industry is regularly in operation. However, a claim for benefits will generally be disallowed if there is reasonable assurance of employment in the upcoming season by one or more employers from the previous season.

On the other hand, where the claimant has earnings from both seasonal and non-seasonal employment, the maximum compensation cumulatively payable, and thus the length of time over which the worker can draw weekly benefits, is significantly curtailed as the proportion of seasonal wages increases. It is important to note, however, that a worker's earnings may not be treated as seasonal unless the individual employer involved has applied for and received formal designation by the state agency as a seasonal employer.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Unemployment Insurance Operations, Ohio Department of Job and Family Services, Columbus, Ohio 43215 (614-466-2319; toll-free 877-644-6562). This agency is responsible for administration of all aspects of the state unemployment insurance system, including tax liability and benefit eligibility determinations, as well as related appeals by employers and workers. UI claims may be filed toll-free by phone, at 877-644-6562, or online at http://unemployment.ohio.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

■ EMPLOYMENT SECURITY ACT OF 1980

STATUTORY CITATION: Okla. Stat. Title 40, §§ 1-101 - 9-104

GENERAL SUMMARY: The Employment Security Act authorizes the payment of unemployment insurance benefits to jobless workers who have sufficient wage credits from recent insured employment and meet other eligibility requirements. Benefits are financed by taxes paid by Oklahoma employers based on their taxable payroll. In general, employers are required to pay UI taxes if they (1) employed one or more individuals for some part of a day in each of 20 or more different calendar weeks in the current or preceding calendar year, or (2) paid \$1,500 or more in wages in any calendar quarter this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, must pay contributions to the state unemployment compensation fund. The amount of an employer's contributions is determined by applying the employer's annually assigned UI tax rate to the taxable wages paid to each employee during the calendar year, up to a per-worker taxable wage limit equal to from 40 to 50 percent of the statewide average annual wage for the second preceding calendar year.

ELIGIBILITY FOR BENEFITS — In brief, an unemployed worker not otherwise disqualified is eligible to receive unemployment compensation only if the state administering agency finds that the individual (1) has filed a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the claim, earned at least 1/2 times the wages earned in the one quarter in which wages were highest.

AMOUNT OF BENEFITS — The weekly benefit amount for an eligible claimant is normally equal to 1/23 of the wages earned by the claimant in the one quarter of the base period when wages were highest. Currently, a claimant's weekly benefit amount may not be less than \$16 and may not exceed \$510. In any week in which the claimant has part-time job earnings, the worker is entitled to a payment equal to the weekly benefit amount, minus that part of the week's earnings in excess of \$100.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oklahoma Employment Security Commission, Oklahoma City, Oklahoma 73152 (405-557-7100). The Commission is solely responsible for administration of the Employment Security Act, and in that role must determine the liability of the state's employers for the payment of unemployment insurance contributions, collect contributions from liable employers, determine the eligibility of workers for UI benefits, issue benefit payments, and adjudicate tax and benefit appeals. Unemployment compensation claims may be filed by phone, at 800-555-1554, or online at www.unemployment.state.ok.us/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

■ EMPLOYMENT DEPARTMENT LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 657.003 - 657.990

GENERAL SUMMARY: The Employment Department Law authorizes the payment of weekly unemployment insurance benefits to individuals who are temporarily out of work and have recent earnings from UI-covered employment. Benefits are financed from the state unemployment compensation trust fund, into which most Oregon employers are compelled to pay contributions in rough proportion to their payroll expenditures. With some exceptions, contributions are required of employers that (1) pay at least \$1,000 in wages during a calendar quarter, or (2) employ one or more individuals in each of 18 different weeks during a calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other employing unit which (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor on any day in each of 20 different calendar weeks in the current or preceding calendar year, must pay unemployment insurance contributions to the state. The amount of contributions for which an employer is liable is computed by multiplying the total taxable wages paid to each worker during the calendar year by the employer's annually prescribed UI tax rate. Taxable wages include only that part of the worker's earnings which is below a limit approximately equal to 80 percent of the statewide average annual wage paid by UI-subject employers during the second preceding calendar year.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other claimant not otherwise disqualified, is generally eligible to receive UI benefits only if the state administering agency finds that the worker (1) has registered for work at the state employment office and continued to report as directed by the office thereafter, (2) has made a claim for benefits, (3) is able to work, available for work, and actively seeking and unable to obtain suitable work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned at least \$1,000 from UI-covered employment and earned total wages equal to at least 11/2 times the wages earned in the one quarter when wages were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is set at 1.25 percent of the total insured wages earned by the claimant over the four-quarter base period mentioned above, but in no case may the weekly benefit amount be less than 15 percent or more than 64 percent of the statewide average weekly wage for covered employment during the preceding calendar year. For any week in which an eligible individual is only partially unemployed, the amount of unemployment compensation payable that week is equal to the weekly benefit amount, minus that portion of the week's part-time earnings which exceeds (a) 10 times the state hourly minimum wage, or (b) 1/3 of the worker's weekly benefit amount, whichever sum is greater.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Oregon Employment Department, Salem, Oregon 97309-5068 (toll-free 877-345-3484). The Department has responsibility for administering the state unemployment insurance system, including determination of liability of employers for payment of UI contributions, collection of contributions from subject employers, determination of eligibility of workers for UI benefits, payment of benefits to eligible workers, and hearing and settling tax and benefit appeals. Initial unemployment compensation claims may be filed online, at https://secure.emp.state.or.us/ocs4/.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 751 - 919.10

GENERAL SUMMARY: The Unemployment Compensation Law compels both employers and employees in most lines of work in Pennsylvania to pay contributions to the state unemployment compensation fund, in rough proportion to the amount of wages they pay or receive, as the case may be. Individuals who are temporarily out of work, who have sufficient wage credits from covered employment, and who meet other eligibility requirements are entitled under the law to weekly cash payments from the state fund.

With some exceptions, employers are required to pay unemployment contributions if they pay wages to even one employee during the calendar year. Likewise, most workers employed by an employer who is not otherwise exempt from paying UI taxes must themselves contribute to the fund.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay contributions to the state unemployment compensation fund. The amount of contributions for which an employer is liable is generally equal to the total amount of wages paid during the calendar year (up to a 2017 wage limit of \$9,750 per worker) multiplied by the employer's unemployment insurance tax rate, which is determined annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

WORKER CONTRIBUTIONS — Each employee of a subject employer is currently required to contribute 0.07 percent of his or her wages to the unemployment compensation fund, without regard to the annual wage limit applicable to employers. Workers' contributions must be withheld from earnings by the employer, who is responsible for reporting and forwarding withheld amounts to the state.

ELIGIBILITY FOR BENEFITS — Unemployment compensation is generally payable to any worker who (1) has registered for job search services and conducts a weekly job search, (2) has made a valid application for benefits and a claim for compensation, (3) is able to work and available for suitable work, (4) has been unemployed for a waiting period of one week, (5) has earned at least 16 times the state hourly minimum wage (\$116 at the current minimum wage of \$7.25) from UI-covered employment in each of 18 or more weeks during the first four of the last five completed calendar quarters immediately preceding application for benefits, and (6) earned at least 37 percent of total wages outside the one quarter when wages were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is defined as either (1) 50 percent of the claimant's full-time weekly wage, or (2) the compensation rate corresponding to the claimant's high-quarter earnings, as specified in the statutorily prescribed benefit tables, whichever of the two sums is greater. With respect to a week of only partial unemployment, the amount of the UI payment is generally equal to the weekly benefit amount, minus that portion of the week's part-time earnings in excess of (1) \$6, or (2) 30 percent of the weekly benefit amount, whichever is greater.

DEPENDENTS' ALLOWANCE — In addition to the worker's regular benefits, for each week of unemployment a claimant is also entitled to \$5 for a dependent spouse or child, plus \$3 for a second dependent.

SEASONAL WORKER PROVISIONS — Wages paid to a worker by certain employers engaged in seasonal operations in a seasonal industry generally may not be counted in computing the worker's eligibility for unemployment compensation, or the amount of such benefits, for any week of unemployment occurring outside the normal seasonal period of operation for that industry. The special rules of eligibility apply only to workers performing seasonal services in connection with commercial canning or commercial freezing of fruits and vegetables, and may be applied only to wages paid by an employer formally determined by the state agency to have a seasonal canning or freezing operation. Each such employer must conspicuously display notices at the workplace advising employees of the seasonal determination and of the estimated beginning and ending dates of its normal seasonal period.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Unemployment Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-3907). The Department is responsible for (1) determining the liability of employers for payment of unemployment insurance contributions and collecting contributions from subject employers, (2) for determining eligibility of workers for UI benefits and paying benefits to eligible workers, and (3) for resolving tax and benefit appeals lodged by employers and workers. The Department also enforces the withholding of UI contributions from employees, and hence may investigate any complaint by a worker alleging that withheld UI contributions are not being properly reported or remitted to the state by the employer. Workers who have UI-related questions may call the Department toll-free, at 888-313-7284; applications for unemployment compensation may be downloaded and filed by mail, but the recommended method is to file a claim online, at www.uc.pa.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

PUERTO RICO EMPLOYMENT SECURITY ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 701 - 717

GENERAL SUMMARY: The Puerto Rico Employment Security Act provides for the payment of weekly unemployment insurance benefits to jobless workers who have earned the requisite amount of wage credits from UI-insured employment and meet other eligibility requirements. Benefits are paid out of the unemployment fund, which is supported in large part by compulsory employer contributions computed as an annually fixed percentage of a subject employer's taxable payroll.

In general, every employer that has at least one employee during any day in the current or preceding calendar year is required to pay UI contributions.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — To the same extent as employing units outside the agricultural sector, every farm operator or other agricultural establishment that employs one or more workers in agricultural labor is required to pay contributions to the unemployment fund. Employers generally pay contributions to the Puerto Rico fund in an amount equal to their annually assigned tax rate, multiplied by the amount of wages paid to each worker during the calendar year, up to a per-worker wage limit of \$10.500.

ELIGIBILITY FOR BENEFITS — Unless otherwise disqualified, an agricultural worker is generally eligible to receive unemployment insurance benefits if he or she (1) has filed a notice of unemployment, (2) has registered for work at an employment service office, (3) has been unemployed for a waiting period of one week, and (4) has, during the first four of the last five completed calendar quarters immediately preceding notice of unemployment, earned wages from UI-insured employment in at least two of those quarters.

AMOUNT OF BENEFITS — The weekly benefit amount for eligible claimants who have earnings primarily or exclusively from agricultural employment, and have earnings in only one quarter of the four-quarter base period mentioned above, may range from \$10 a week up to a maximum of \$42 a week (2016).

For agricultural workers who have earnings in more than one quarter of the base period, the benefit schedule for non-agricultural workers applies, which provides for payments ranging from \$7 to \$133 a week (\$33 to \$190 beginning July 1, 2018, \$60 to \$240 beginning July 1, 2019). For any week in which a UI recipient also has earnings from part-time employment, the worker is entitled to receive the weekly benefit amount, minus that portion of the week's part-time earnings that exceeds the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900). The Department is responsible both for the enforcement of the employer's liability for payment of UI contributions, and for administration of UI claims and benefit payments. Applications for compensation may be filed by telephone, at 787-945-7900.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

EMPLOYMENT SECURITY ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-42-1 - 28-44-71

GENERAL SUMMARY: The Employment Security Act establishes a fund for the payment of unemployment insurance benefits to temporarily jobless workers who have recent earnings from insured employment and meet other eligibility requirements. Benefits are financed largely by the state's employers, most of whom are obligated to contribute to the fund if they employ one or more workers during the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — On the same terms as most non-agricultural employing units, farm operators and other agricultural establishments that employ one or more workers within any calendar year are required to pay contributions to the employment security fund on their employees' behalf. The amount of an employer's contributions is normally equal to the employer's assigned tax rate, multiplied by the amount of wages paid by the employer during the calendar year, up to a per-worker taxable wage limit. The wage limit is set at 46.5 percent of the average annual wage in covered employment during the prior calendar year; for most employers in 2017 the limit is \$22,400, but for employers in the highest tax rate group, the taxable wage base is \$23,900.

ELIGIBILITY FOR BENEFITS — Like their counterparts in other industries, farmworkers not otherwise disqualified are eligible for unemployment insurance benefits if (1) during the first four of the last five completed calendar quarters preceding the initial claim, they earned minimum insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840), (2) in at least one of the four quarters, they earned at least 200 times the minimum wage (or \$1,920), and (3) their total earnings over the entire four-quarter period amount to at least 11/2 times their earnings in the one quarter when earnings were highest.

Alternatively, workers may qualify if they had base-period earnings equal to at least 3 times the minimum earnings amount noted above, or \$11,520 at the current minimum wage of \$9.60.

In addition, claimants must be physically able to work and available for work, and must have registered for work and continued to report periodically as directed.

AMOUNT OF BENEFITS — The benefit rate payable to an eligible claimant for any week of unemployment is generally defined as 3.85 percent of the claimant's average quarterly wage over the two quarters of the base period when wages were highest; in no case, however, may the benefit rate exceed (1) 57.5 percent of the statewide average weekly wage for the preceding calendar year, or (2) the maximum weekly benefit rate in effect on July 1, 2011, whichever is higher. For any week of only partial unemployment, the claimant is entitled to a payment roughly equal to the weekly benefit rate, minus the week's part-time earnings, minus an amount equal to 1/5 of the individual's weekly benefit rate.

DEPENDENTS' ALLOWANCE — In addition to the basic benefit amount described above, a worker will generally also receive a weekly allowance of \$15 or 5 percent of the worker's benefit rate, whichever is greater, for each dependent child under 18 years of age, but not exceeding 5 such dependents. The total dependents' allowance for any week may not exceed the greater of \$50 or 25 percent of the worker's benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-243-9100). The Department is responsible for determining eligibility for unemployment insurance benefits, payment of benefits, and related appeals. Claims for unemployment compensation may be filed over the telephone, at 401-243-9100, or online at http://www.dlt.ri.gov/ui/fileclaim2.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Employer Tax Section, Division of Taxation, Rhode Island Department of Revenue, Providence, Rhode Island 02908 (401-574-8700). This agency is responsible for the determination of employer liability for UI contributions, and for the collection of contributions on behalf of the Rhode Island Department of Labor and Training.

South Carolina

○ SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE LAW

STATUTORY CITATION: S.C. Code §§ 41-27-10 - 41-41-50

GENERAL SUMMARY: The South Carolina Department of Employment and Workforce Law requires most employers in the state to pay wage-based contributions to the state unemployment compensation fund, which is created for the purpose of financing cash payments to individuals who are temporarily out of work and have sufficient wage credits from recent insured employment to qualify for benefits. With some exceptions, the law requires employers to pay unemployment contributions if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 or more different calendar weeks in the current or preceding calendar year employed at least 10 workers in agricultural labor, must pay contributions to the state unemployment compensation fund on their behalf. With respect to each covered employee, a subject employer normally pays as contributions an annually assigned percentage of the employee's wages, up to a calendar-year wage limit of \$14,000 per worker.

ELIGIBILITY FOR BENEFITS — An unemployed worker in any industry is generally eligible to receive unemployment insurance benefits only if the state administering agency finds that the worker (1) has made a claim for benefits, (2) has registered for work at a state employment office and continued to report to the office periodically thereafter, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, (5) was separated from his or her most recent job through no fault on the worker's part, and (6) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned \$4,450 or more from UI-covered employment, at least \$1,092 of which must have been received in the one quarter in which wages were highest, and earned total insured wages over the four-quarter base period equal to or exceeding 11/2 times the amount earned in the peak quarter.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount is defined as 50 percent of the worker's average weekly wage for insured employment during the high-earnings quarter of the four-quarter base period. In no instance, however, may the weekly benefit amount be less than \$42 or greater than 2/3 of the statewide average weekly wage. For any week of unemployment, an eligible claimant is entitled to a payment equal to the weekly benefit amount, minus that part of any wages earned from part-time employment that week which exceeds 1/4 of the worker's weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

CREW LEADERS DEEMED EMPLOYERS — A person who provides agricultural workers to a farm operator, who pays their wages either on his or her own behalf or on behalf of the farm operator, and who is registered as a farm labor contractor with the U.S. Department of Labor, is generally considered an agricultural employer. A labor contractor who meets the coverage threshold noted under the heading "Employer Contributions" above may be required to pay state UI taxes on behalf of his or her workers, if the workers are not deemed employees of the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, South Carolina Department of Employment and Workforce, Columbia, South Carolina 29202 (803-737-2546). This agency has exclusive responsibility for the state's unemployment insurance program, and thus has control over determinations regarding employer liability for contributions and worker eligibility for benefits. UI claims may be filed online, at mybenefits.dew.sc.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Dakota

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 61-1-1 - 61-7-24

RELATED REGULATIONS: S.D. Admin, R. 47:06:01:01 - 47:06:05:28

GENERAL SUMMARY: The unemployment compensation law establishes a state unemployment compensation fund, into which most South Dakota employers are required to pay contributions in rough proportion to the dollar value of their payroll. The fund is used exclusively for the payment of cash benefits to workers who are temporarily unemployed and who have recent earnings from insured employment and meet other eligibility criteria. With some exceptions, employers are required to pay UI taxes if they (1) paid wages toting \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one individual for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay contributions to the unemployment compensation fund. The amount of a subject employer's contributions is generally computed by multiplying the amount of wages paid by the employer during the calendar year (up to a per-worker wage limit of \$15,000) by the employer's annually assigned contribution rate.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other jobless individual, is normally eligible to receive unemployment insurance benefits only if the state administering agency finds that the worker (1) has registered for work at a state employment office and continued to report to the office periodically thereafter, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned at least \$728 in the one quarter when earnings were highest and earned total wages in the other three quarters amounting to at least 20 times the worker's weekly benefit amount, described below. If an applicant does not meet the monetary requirements using the first four of the last five completed calendar quarters, the base period is the four completed calendar quarters immediately preceding the individual's initial claim.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is defined as 1/26 of the worker's wages from insured work during the high-earnings quarter of the four-quarter base period. In no case, however, may the weekly benefit amount exceed 50 percent of the statewide average weekly wage for covered employment during the preceding year. For any week of unemployment, an eligible claimant is entitled to a payment equal to the weekly benefit amount, minus 75 percent of any earnings from part-time employment that week that exceed \$25.

SEASONAL WORKER PROVISIONS — Wages earned from employment in an industry designated as "seasonal" by the state labor department generally may not be counted in determining eligibility for UI benefits, or the amount of such benefits, except when unemployment occurs during the designated period of normal operation of that seasonal industry. However, the regulatory listing of designated seasonal industries does not currently include any agriculturally related activities.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, South Dakota Department of Labor and Regulation, Aberdeen, South Dakota 57402 (605-626-3172). The Department is responsible for all aspects of the state unemployment insurance system, including determining employer liability for contributions, collecting contributions from subject employers, determining worker eligibility for benefits, paying benefits to eligible workers, and hearing and deciding tax and benefit appeals. Workers may apply for unemployment compensation by phone, at 605-626-3179, or online at www.sd.uiclaims.com.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

STATUTORY CITATION: Tenn. Code §§ 50-7-101 - 50-7-715

GENERAL SUMMARY: The Tennessee Employment Security Law authorizes the payment of unemployment insurance benefits to individuals who are temporarily out of work and who have recent earnings from insured employment and meet other eligibility requirements. Benefits are financed by premiums paid to the unemployment compensation fund by most of the state's employers, in rough proportion to the dollar amount of their payroll. Employers are generally required to pay premiums if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some portion of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Each farm operator or other agricultural employing unit that (1) paid at least \$20,000 in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor in each of 20 different calendar weeks in the current or preceding calendar year, is required to pay premiums to the state unemployment compensation fund. An employer's premiums are generally computed on the total amount of wages paid to the employer's workers (up to an annual wage ceiling ranging from \$7,000 to \$9,000 per worker), multiplied by the employer's premium rate, which is determined each year by the state administering agency in consideration of the employer's unemployment claims experience and other factors.

ELIGIBILITY FOR BENEFITS — An unemployed claimant not otherwise disqualified is eligible to receive unemployment insurance benefits only if the state agency finds that the worker (1) has made a claim for benefits, (2) has furnished his or her Social Security number, (3) has registered for work at the state employment office and continued to report to the office periodically thereafter, (4) is able to work, available for work, and making a reasonable effort to find work, (5) has been unemployed for a waiting period of one week, and (6) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned quarterly wages of at least \$780 averaged over the two quarters when earnings were highest.

AMOUNT OF BENEFITS — An individual's weekly benefit amount varies according to the quarterly wage average mentioned above, but may range from \$30 to \$275 per week. For any week of unemployment, the claimant is entitled to a UI payment equal to the weekly benefit amount, minus that part of the week's part-time earnings (if any) which exceeds the greater of \$50 or 25 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment premiums, in cases where farmworkers (other than workers operating mechanized equipment) are furnished to a farm operator by a crew leader who is a federally registered farm labor contractor, and the workers are not employees of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Compensation Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (toll-free 844-224-5818). The Department is responsible for enforcing the collection of premiums from subject employers, administering the payment of benefits to eligible claimants, and adjudicating related appeals by employers and workers. Claims for unemployment compensation may be filed online, at https://www.jobs4tn.gov/vosnet/registration/ind/uiclaim.aspx.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

■ TEXAS UNEMPLOYMENT COMPENSATION ACT

STATUTORY CITATION: Tex. Labor Code §§ 201.001 - 215.044

GENERAL SUMMARY: The Texas Unemployment Compensation Act provides for the payment of weekly cash benefits to workers who are temporarily unemployed, have recent earnings from insured employment, and meet other eligibility criteria. Benefits are payable from the state unemployment compensation fund, which is financed by contributions from employers. In general, employers are subject to payment of UI contributions if they (1) paid wages of \$1,500 or more during a calendar quarter in the current or preceding calendar year, or (2) employed at least one individual for a portion of at least one day during 20 or more different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — In most instances, with respect to wages paid for farmwork performed by migrant, seasonal and other agricultural workers under the circumstances outlined below, farm operators and other agricultural establishments in Texas are liable for unemployment insurance contributions on their workers' behalf. Generally, the amount of a subject employer's contributions is equal to the employer's total wage payments during the calendar year up to a taxable wage limit of \$9,000 per worker, multiplied by the employer's contribution rate, which is determined annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

Migrant Workers — All wages paid to a farmworker for agricultural services which require the worker to be absent overnight from his or her permanent place of residence are subject to contributions from the employer, and all such wages are countable in determining the worker's eligibility for and the amount of UI benefits.

Seasonal Workers — Wages paid for agricultural services which do not require the worker's overnight absence from home are subject to employer contributions and are counted for UI benefit purposes under either of the following conditions:

- (1) When the worker is performing services in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets or vegetable seeds.
- (2) When the worker is working for a farm operator or farm labor contractor who employs migrant workers doing the same work, at the same time, and at the same location as the seasonal worker.

Other Agricultural Workers — Wages paid to any non-migrant, non-seasonal worker performing agricultural services are subject to employer contributions and are countable in determining the worker's eligibility for benefits under either of these conditions:

- (1) When the worker is employed by an employer who, during any calendar quarter of the current or preceding calendar year, paid cash wages of \$6,250 or more for agricultural labor.
- (2) When the worker is employed by an employer who, for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, employed at least 3 workers in agricultural labor.

ELIGIBILITY FOR BENEFITS — An unemployed farmworker, like any other jobless individual not otherwise disqualified, is generally eligible to receive unemployment benefits only if the state agency finds that the worker (1) has registered for work and continued to report as instructed, (2) has made a valid claim for benefits, (3) is able to work and available for work, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned UI-insured wages amounting to at least 37 times the worker's weekly benefit amount (explained below) and had insured earnings in at least two quarters of the four-quarter base period.

AMOUNT OF BENEFITS — The weekly benefit amount for an eligible claimant who is totally unemployed in any given week is generally equal to 1/25 of the worker's wages from insured employment during the one quarter of the four-quarter base period in which wages were highest. Minimum and maximum amounts are tied to the statewide average weekly wage for UI-covered employment, but benefits currently range between \$66 and \$493 per week. For any week of partial unemployment, a worker is generally eligible for a UI payment at the weekly benefit amount, plus \$5 or 25 percent of the benefit amount, whichever is greater, minus the wages earned that week from part-time work.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm labor contractor or labor agent furnishes farmworkers to perform agricultural services for a farm operator, the contractor is liable for the payment of UI taxes as if the contractor were the employer of the workers, without regard to the right of control or other factors commonly used to determine the employer-employee relationship. If, however, the labor contractor does not pay taxes as required, the farm operator or other person for whom the workers' services are being performed is jointly liable, together with the contractor, for the payment of contributions. Labor contractors are obligated to notify each farm operator with whom they contract as to whether or not they pay UI taxes in Texas and, if so, must present evidence to that effect.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance and Regulation Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-7234; toll-free 800-939-6631). The Commission has sole responsibility for administering the state's unemployment insurance system, including employer tax liability determinations, collection of contributions, benefit eligibility determinations, payment of benefits, and adjudication of tax and benefit appeals. Claims for unemployment compensation may be filed online, at https://apps.twc.state.tx.us/UBS/security/logon.do.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Utah Code §§ 35A-4-101 - 35A-4-508

GENERAL SUMMARY: The Employment Security Act makes unemployed workers who have recent earnings from insured employment and meet other eligibility criteria eligible to receive weekly unemployment insurance benefits, financed largely through a payroll tax levied against most of the state's employers. With some exceptions, employers are required to pay UI taxes if they employ one or more workers for some portion of a day during the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural employing unit that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, is required to pay contributions to the state unemployment compensation fund on the workers' behalf. The amount of the contributions depends on the employer's payroll expenditures (which are subject to a per-worker taxable limit determined each year by law) and the employer's UI claims experience.

ELIGIBILITY FOR BENEFITS — An unemployed worker not otherwise disqualified is eligible to receive UI benefits only if the state administering agency finds that the worker (1) has made a claim for benefits, (2) has registered for work at the state employment office, (3) is able to work, available for work, and actively seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned total wages amounting to at least 1¹/2 times the amount the worker earned in the one quarter of the four-quarter base period in which earnings were highest.

AMOUNT OF BENEFITS — An individual's weekly benefit amount is generally defined as 1/26 of the worker's insured wages in the high-earnings quarter mentioned above, up to a maximum amount of 62.5 percent of the statewide average weekly wage for insured employment. An eligible claimant who is unemployed in any given week is entitled to a UI benefit payment roughly equal to the worker's weekly benefit amount, minus that portion of any part-time earnings that week which exceeds 30 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Utah Department of Workforce Services, Salt Lake City, Utah 84145 (801-526-9235; toll-free 800-848-0688). The Department is responsible for administering the state unemployment insurance system, including the determination of employer liability for UI taxes, collection of taxes from liable employers, determination of worker eligibility for UI benefits, payment of benefits to eligible workers, and hearing and settlement of related employer and worker appeals. Claims for unemployment compensation may be filed online, at jobs.utah.gov/ui/InitialClaims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

■ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 1301 - 1471

GENERAL SUMMARY: Vermont's unemployment compensation law requires most employers to pay unemployment insurance contributions to the state, in rough proportion to the dollar amount of their payroll. Contributions are used to pay weekly benefits to temporarily jobless workers who have recent earnings from insured employment and meet other eligibility criteria. Employers are generally required to pay UI contributions if they (1) paid wages of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different calendar weeks this year or last

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) during any calendar quarter of the current or preceding calendar year paid \$20,000 or more for agricultural labor, or (2) for any portion of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, must pay unemployment insurance contributions to the state. The amount of contributions payable is normally equal to the employer's total wage payments during the calendar year (up to a per-worker taxable wage limit determined by the state administering agency each year), multiplied by the employer's contribution rate, which is set annually by the administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed individual is eligible to receive benefits only if the state agency finds that the worker (1) has registered for work at the state employment office, (2) has made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned at least \$1,000 from insured employment in at least one such quarter and been paid additional insured wages which equal or exceed 40 percent of the wages received in the one quarter when earnings were highest.

AMOUNT OF BENEFITS — A claimant's weekly benefit amount is calculated by dividing the worker's earnings during the two quarters of the four-quarter base period in which earnings were highest by 45, but in no event may the weekly benefit amount exceed the statutorily prescribed maximum level. For any week in which an eligible claimant has earnings from part-time employment, the worker is entitled to a UI payment equal to the worker's weekly benefit amount, minus the week's part-time earnings.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4333). This agency is responsible for the collection of unemployment insurance contributions from employers determined liable for such payments, and is likewise responsible for the issuance of UI benefits to workers found eligible to receive them. The Department also hears and decides appeals filed by employers and employees regarding tax liability and benefit claims. Workers who are temporarily without a job and who believe they may qualify for benefits may file a claim by toll-free telephone, at 877-214-3330, or online at uipublic01.labor.vermont.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

■ VIRGINIA UNEMPLOYMENT COMPENSATION ACT

STATUTORY CITATION: Va. Code §§ 60.2-100 - 60.2-637

GENERAL SUMMARY: The Virginia Unemployment Compensation Act establishes an unemployment compensation fund in the state treasury, into which most employers are required to pay taxes in proportion to their taxable wage payments. The fund is used to finance unemployment insurance benefits for jobless workers who have recent earnings from insured employment and meet other eligibility criteria. With some exceptions, employers must pay unemployment contributions if they (1) paid at least \$1,500 in wages in any calendar quarter of the current or preceding calendar year, or (2) employed at least one worker for some part of a day in each of 20 different weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid \$20,000 or more in agricultural wages in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for any part of a day in each of 20 different calendar weeks in a calendar year, must pay unemployment insurance taxes to the state. The amount of the tax is normally computed as an annually assigned percentage of the first \$8,000 in wages paid to each employee, the tax rate depending on the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In brief, an unemployed individual is eligible to receive benefits only if the state administering agency finds that the worker (1) is not unemployed as a result of involvement in a labor dispute, (2) is not receiving UI benefits from another state, (3) is not on paid vacation, (4) has registered for work with the state employment service and continued to report periodically thereafter, (5) has made a claim for benefits, (6) is able to work, available for work, and actively seeking work, (7) has served a one-week waiting period, and (8) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, had earnings in at least two of the four quarters and earned at least \$3,000 from UI-covered employment in the two quarters in which earnings were highest.

AMOUNT OF BENEFITS — An eligible claimant's weekly benefit amount depends on the earnings in the two high-earnings quarters of the base period mentioned above, but the benefit amount may currently range from \$60 to \$378 per week. The UI payment for any week of unemployment is equal to the weekly benefit amount, minus that portion of the week's part-time earnings, if any, which exceeds \$50.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment taxes, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Compensation Division, Virginia Employment Commission, Richmond, Virginia 23219 (804-786-3061). The Commission is responsible for administering all aspects of the Unemployment Compensation Act, including determination of employer liability for UI taxes, collection of taxes, determination of worker eligibility for UI benefits, payment of benefits, and adjudication of tax and benefit appeals. Unemployment compensation claims may be filed by toll-free telephone, at 866-832-2363, or online, at www.vec.virginia.gov/unemployed/online-services/apply-for-unemployment-benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

■ EMPLOYMENT SECURITY ACT

STATUTORY CITATION: Wash. Rev. Code §§ 50.01.005 - 50.98.110

GENERAL SUMMARY: Among other legislative purposes, the Employment Security Act establishes a state unemployment compensation fund for the payment of weekly cash benefits to workers who are temporarily unemployed, have recently worked in insured employment, and meet other eligibility criteria. The fund is supported by compulsory contributions collected from most of the state's employers in rough proportion to their payroll expenditures. With some exceptions, employers with one or more employees are required to pay contributions.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — A farm operator, crew leader or other agricultural establishment that (1) paid \$20,000 or more in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, must pay state unemployment insurance contributions. The amount of the UI tax is determined by multiplying the employer's taxable wage payments during the calendar year by the employer's tax rate, which is assigned annually by the state administering agency on the basis of the employer's UI claims experience and other factors. The amount of each worker's wages subject to the tax in any year is generally limited to 80 percent of the statewide average annual wage for UI-covered employment during the second preceding calendar year.

ELIGIBILITY FOR BENEFITS — An unemployed individual is eligible to receive benefits only if the state agency finds that the worker (1) has registered for work with the state employment office and continued to report periodically thereafter, (2) has filed an application for an initial determination of eligibility and made a claim for benefits, (3) is able to work and available for work, (4) has been unemployed for a waiting period of one week, (5) is actively seeking work each week and participating in re-employment services if required, and (6) has earned wages for no less than 680 hours of UI-covered employment during either (a) the first four of the last five completed calendar quarters immediately preceding the application for initial determination of eligibility, or (b) the *last* four quarters of the five-quarter period.

Students, farm interns, members of the employer's own family, and workers not legally authorized to work in the U.S. are not eligible for unemployment benefits.

AMOUNT OF BENEFITS — An individual's weekly benefit amount is defined as 3.85 percent of the worker's quarterly wages from UI-covered employment, averaged over the two quarters of the worker's four-quarter base year in which such wages were highest. In no case, however, may the weekly benefit amount be (1) more than 63 percent of the statewide average weekly wage for covered employment in the preceding calendar year, or (2) less than 15 percent of last year's average weekly wage. For any week of unemployment, the claimant is generally entitled to a UI payment equal to the weekly benefit amount, minus 75 percent of that portion of the week's part-time earnings (if any) in excess of \$5.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — Unless it is established to the satisfaction of the Department that services were performed in the employ of the crew leader, farmworkers performing agricultural services for a farm operator through or under the supervision of a crew leader are deemed employees of the farm operator, and if the farm operator meets the payroll test described above, the farm operator is liable for payment of UI contributions on the workers' behalf. Furthermore, in the event a crew leader is judged to be the employer but fails to pay required contributions, the farm operator is liable for the contributions on the workers' wages, even if the farm operator does not meet the coverage test.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Program, Washington State Employment Security Department, Olympia, Washington 98507 (360-902-9500). Administration of the state unemployment insurance program, from the collection of UI contributions from subject employers to the payment of benefits to eligible workers, is handled exclusively by the Department. An application for benefits may be filed by toll-free telephone, at 800-318-6022, or online, at https://esd.wa.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: W. Va. Code §§ 21A-1-1 - 21A-11-1

GENERAL SUMMARY: The Unemployment Compensation Law seeks to provide a measure of security to families of unemployed workers, by authorizing the collection of unemployment insurance contributions from most employers in the state, to finance the payment of weekly benefits to persons who are temporarily out of work, have recent earnings from insured employment, and meet other eligibility requirements. With some exceptions, employers are required to pay unemployment contributions if they (1) paid \$1,500 of more in wages in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural employing unit that (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is required to pay unemployment insurance contributions to the state. A subject employer is generally liable for contributions on the first \$12,000 in wages paid to each employee during the calendar year, at a tax rate prescribed annually by the state administering agency in accordance with the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed person is eligible to receive unemployment benefits only if the state agency finds that the worker (1) has registered for work with the state employment service, (2) has made a claim for benefits, (3) is able to work, available for work, and conscientiously seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned at least \$2,200 in UI-covered wages, with earnings in more than one such quarter.

AMOUNT OF BENEFITS — The weekly benefit rate for an eligible claimant currently varies from \$24 to \$424 per week, depending on the worker's total earnings in the four-quarter base period mentioned above and subject to prescribed rules governing maximum weekly benefits. An eligible individual who is partially unemployed in any week is entitled to a UI payment equal to the worker's weekly benefit rate, minus that part of the week's part-time earnings which exceeds \$60.

SEASONAL WORKER PROVISIONS — A person who has worked less than 100 days during the base period in an industry recognized as seasonal (such as agricultural production, food processing, or canning) is not eligible for UI benefits unless the worker has base-period earnings from non-seasonal UI-covered employment amounting to at least \$100.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Compensation Division, WorkForce West Virginia, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-2624; toll-free 877-967-5498). This agency is responsible for the collection of unemployment insurance contributions from subject employers, the payment of UI benefits to eligible workers, and the adjudication of employer and worker appeals. Unemployment compensation claims may be filed at any local WorkForce West Virginia office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

UNEMPLOYMENT INSURANCE LAW

STATUTORY CITATION: Wis. Stat. §§ 108.01 - 108.26

GENERAL SUMMARY: Chapter 108 of the Wisconsin statutes authorizes the payment of unemployment insurance benefits to workers who are temporarily out of work, have recent earnings from insured employment, and meet other qualifications. To finance the payment of UI benefits, the law establishes an unemployment reserve fund and requires most employers in the state to pay contributions to the fund in rough proportion to their payroll expenditures. With some exceptions, employers are required to pay UI taxes if they (1) paid wages totaling \$1,500 or more during any quarter of the current or preceding calendar year, or (2) employed at least one worker for any part of a day in each of 20 or more calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — In general, every farm operator or other agricultural establishment that (1) paid cash wages for agricultural labor amounting to \$20,000 or more during any quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in at least 20 different calendar weeks in the current or preceding calendar year, is required to pay UI contributions to the state. With respect to each employee, a subject employer is liable for contributions on the first \$14,000 in wages paid during the calendar year, at a tax rate assigned by the state administering agency on the basis of the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — In general, an unemployed worker not otherwise disqualified is eligible for unemployment insurance benefits only if the worker (1) is able to work, available for work, and seeking suitable work, (2) has registered for work with the public employment service, and (3) has, during the first four of the last five calendar quarters immediately preceding the initial claim for benefits, earned at least 35 times the weekly benefit rate (explained below) from UI-covered employment, and at least 4 times the weekly benefit rate outside the one quarter in which earnings were highest.

AMOUNT OF BENEFITS — The weekly benefit rate for an eligible worker who is totally unemployed is generally equal to 4 percent of the claimant's earnings during the one quarter of the four-quarter base period when earnings were highest; currently, UI benefits may range from \$53 to \$370 per week. For any week during which an eligible claimant has earnings from part-time employment, the first \$30 of the week's wages are disregarded in computing the amount of the UI payment, and the claimant's applicable weekly benefit rate is reduced by 67 percent of the remaining amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is a federally registered farm labor contractor, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (414-438-7705). The Department has control of all aspects of the state's unemployment insurance system, from collection of UI taxes from subject employers, to payment of UI benefits to eligible workers, to adjudication of tax and benefit appeals. Claims for unemployment compensation may be filed online, at my.unemployment.wisconsin.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

■ WYOMING EMPLOYMENT SECURITY LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-3-101 - 27-3-706

GENERAL SUMMARY: The Wyoming Employment Security Law establishes a state unemployment compensation fund for the purpose of financing weekly cash payments to temporarily unemployed workers who have recent earnings from insured employment and meet other eligibility criteria. The unemployment compensation fund is supported by contributions from most Wyoming employers, who are taxed in proportion to the dollar amount of their payroll. With certain exceptions, employers who have one or more employees are required to pay UI taxes.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural establishment that (1) paid cash agricultural wages of \$20,000 or more during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for any part of a day in 20 or more calendar weeks in the current or preceding calendar year, is required to pay unemployment insurance contributions to the state. At a state-assigned contribution rate that depends on the employer's UI claims experience and other factors, a subject employer is liable for contributions on each employee's total wages over the calendar year, up to a taxable wage limit equal to 55 percent of the statewide average annual wage for UI-covered employment.

ELIGIBILITY FOR BENEFITS — A farmworker, like any other unemployed individual not otherwise disqualified, is eligible for unemployment benefits if the worker (1) registers for work and continues to report to the state employment office, (2) files a benefit claim, (3) is able to work, available for work, and actively seeking work, and (4) has, over the first four of the last five completed calendar quarters immediately prior to the initial claim, earned total insured wages equal to or exceeding 8 percent of the statewide average annual wage, and total wages of at least 1.4 times the wages earned in the one quarter of the four-quarter base period in which earnings were highest.

AMOUNT OF BENEFITS — In general, the weekly benefit amount for an eligible claimant is defined as 4 percent of the worker's high-quarter earnings in the four-quarter base period, but in no event may the weekly benefit amount be more than 55 percent of the statewide average weekly wage for UI-covered employment. The amount of the unemployment compensation payment for any given week is approximately equal to the worker's weekly benefit amount, minus that portion of any earnings from part-time employment that week which exceeds 50 percent of the weekly benefit amount.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Unemployment Insurance Division, Wyoming Department of Workforce Services, Casper, Wyoming 82601 (307-235-3264). The UI Division is responsible for administering the payment of unemployment insurance benefits to eligible workers, and for enforcing the collection of UI contributions from employers who are subject to the Employment Security Law. Appeals of benefit and tax decisions are also heard and decided by this agency. Claims for unemployment compensation may be filed by calling 307-473-3789, or online at doe.state.wy.us/InetClaims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alabama

ALABAMA WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-5-1 - 25-5-340

GENERAL SUMMARY: In the case of an employer who regularly employs 5 or more employees in any one business, Chapter 5 of the state labor laws provides that when personal injury or death is sustained by an employee through an on-the-job accident caused by a covered employer's negligence, the employee or the employee's survivors are entitled to compensation in civil court. In any such lawsuit, the employer generally may not use as a defense that the employee was negligent, that the injury was caused by the negligence of a fellow employee, or that the employee had assumed certain risks in connection with the employment.

As an alternative to court action and the likelihood of a judgment against the employer, the law prescribes the use of workers' compensation insurance, which assures payment of required money benefits to persons injured (or to survivors of persons killed) on the job, without regard to any question of negligence, and protects the employer from any other liability for damages. The law establishes the conditions under which workers' compensation is payable, as well as the type of and limits on such benefits, which include periodic cash payments, payment of burial expenses, and payment of medical and hospital costs.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where the employer elects to become subject to coverage voluntarily, the provisions entitling workers to compensation for employment-related injury or death **do not apply** to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alaska

STATUTORY CITATION: Alaska Stat. §§ 23.30.001 - 23.30.400

GENERAL SUMMARY: The Alaska Workers' Compensation Act authorizes the payment of compensation to a covered employee or the employee's survivors in the event of the employee's work-related disability or death. In general, all employers subject to this law are liable for payment of (among other costs) physicians' and nurses' fees, hospital services and supplies, medicines, burial expenses, and weekly cash payments or death benefits on behalf of workers injured, disabled or killed on the job. Compensation is payable without respect to fault as a cause for the injury or accident.

The Act provides for the issuance of workers' compensation insurance policies, the purchase of which fully satisfies the employer's liability for injury to an employee. If, however, an employer fails to obtain workers' compensation insurance coverage or otherwise provide the compensation required under this law, the injured employee (or the employee's survivors) may sue for compensation in state court, and the employer may not use as a defense in such an action that the injury was caused by the employee's negligence or the negligence of a fellow worker, or that the employee had assumed the risks that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Workers' Compensation Act generally applies to agricultural employment but does not cover harvest labor and similar part-time or transient workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2790). This agency is responsible for receiving workers' compensation claims filed by employees or their representatives, investigating such claims, and acting to award or deny benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-901 - 23-1104

GENERAL SUMMARY: The Arizona workers' compensation statute declares the right of covered employees or their survivors to receive compensation for work-related injuries, illness or death, and defines the type and amount of benefits payable. The law places responsibility for payment of compensation on the employer but authorizes the commercial marketing of prescribed workers' compensation insurance policies which will satisfy the employer's liability. An employer subject to the Act who fails to secure workers' compensation insurance coverage and is sued for compensation by an injured employee loses most legal defenses otherwise available under common law. Proof of the employee's injury constitutes prima facie evidence of negligence on the employer's part.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as most other employers, the workers' compensation law applies to farm operators and other agricultural establishments who hire one or more workers. Such employers must either cover their employees with a workers' compensation insurance policy, the cost of which may not be deducted from the employees' pay, or furnish proof to the state administering agency that they have the financial ability to pay compensation directly to injured employees in the event of an accident. In either case, agricultural workers who are injured in an accident or disabled by illness arising out of and in the course of their employment (or the dependents of agricultural workers whose death results from such an accident or illness) are generally entitled to receive periodic cash payments or death benefits, medical and hospital services, medicines, and funeral expenses in accordance with detailed specifications and limitations spelled out in the statute.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — When a farm operator or other agricultural establishment procures work to be done by a contractor over whose work the farm operator retains supervision and control, the contractor and the workers in the contractor's crew are regarded under the workers' compensation law as employees of the farm operator, who is therefore the party liable for coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661). The state industrial commission is responsible for monitoring, regulating and adjudicating claims for compensation for work-related injuries, illnesses and death, and for processing and paying claims against uninsured employers. This agency is also authorized to assure compliance by employers subject to the financial liability this law imposes.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ark. Code §§ 11-9-101 - 11-9-1001

GENERAL SUMMARY: The Workers' Compensation Law requires most Arkansas employers with 3 or more regular employees to pay compensation for disability or death arising out of and in the course of employment, generally without regard to fault as a cause of the injury. Failure by an employer to provide required compensation to an injured employee, through a workers' compensation insurance policy or as a self-insurer, exposes the employer to unlimited liability in any suit filed by the employee, since the law strips the employer of most legal defenses otherwise available.

Benefits to which the worker or the worker's dependents may be entitled under the law include, among others, weekly cash payments to compensate for loss of wages, rehabilitation expenses, medical and hospital services, related supplies, and medicines.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Workers' Compensation Law does not apply to agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Arkansas Workers' Compensation Commission, Little Rock, Arkansas 72201. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

WORKERS' COMPENSATION ACT

STATUTORY CITATION: Cal. Lab. Code §§ 3200-6208

GENERAL SUMMARY: The Workers' Compensation Act makes most employers in the state liable for payment of compensation to their employees who are injured on the job, without regard to the question of negligence. Compensation to an injured worker (or to the dependents of a worker who dies from work-related injuries) includes medical and hospital treatment, weekly disability payments in lieu of lost wages, and death benefits.

In general, employers must meet their liability for compensation either by obtaining workers' compensation insurance which meets minimum prescribed coverage criteria, or by securing a certificate from the state consenting to self-insurance. If an employer fails to secure payment of compensation through one of these two options, an injured employee or the employee's dependents may bring suit against the employer for damages. In any such action, it is presumed that the injury was due to the negligence of the employer, and the burden of proof is on the employer to rebut this presumption. Moreover, the Act expressly bars the employer from claiming as a defense to the suit that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risks that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers are subject to the Workers' Compensation Act, and farmworkers are entitled to its protection, to the same extent as their counterparts in most non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100). This agency is responsible for receiving and processing workers' compensation claims, adjudicating workers' compensation appeals, and overseeing the payment of workers' compensation benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Colorado

WORKERS' COMPENSATION ACT OF COLORADO

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-40-101 - 8-47-209

GENERAL SUMMARY: The Workers' Compensation Act provides workers who are injured on the job with a pronounced advantage over the employer in a lawsuit to recover damages, by precluding as a defense any claim by the employer that the worker had assumed the risk of the hazard that led to the injury, that the injury was caused by the negligence of a co-worker, or that the injury was caused by the worker's own negligence.

As an alternative to virtually unlimited liability on the employer's part, and lengthy and expensive legal action by the worker, the Act requires covered employers either (1) to secure and maintain in effect a policy of workers' compensation insurance that will cover medical, hospital and rehabilitation expenses, provide periodic payments in lieu of lost wages, and meet other costs due to work-related injury or death, or (2) to obtain a self-insurance permit from the state evidencing the employer's financial ability to provide the same benefits prescribed in a workers' compensation insurance policy.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural employers who have one or more employees are required to protect their workforce with workers' compensation coverage to the same extent as covered non-agricultural establishments.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Colorado Department of Labor and Employment, Denver, Colorado 80202 (888-390-7936). This agency is charged with processing workers' compensation claims by injured employees or their dependents, and for assuring the payment of compensation benefits to eligible claimants.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

CONNECTICUT WORKERS' COMPENSATION ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-275 - 31-355b

GENERAL SUMMARY: Under the Workers' Compensation Act, virtually all employers in Connecticut are obligated to pay certain medical costs of employees injured on the job or disabled by an occupational illness, and to compensate such workers or their dependents for the loss of earning capacity caused by the injury or illness, without regard to questions of negligence.

Employers may satisfy this obligation either by securing workers' compensation insurance which meets state-prescribed coverage and benefit standards, or by filing evidence with the state of financial ability to pay compensation directly. In exchange for compulsory protection of their workers against economic loss due to job-related personal injury or death, employers are not liable to any legal action for damages on account of such injury or death. Employers who fail, however, to comply through purchase of workers' compensation insurance or filing proof of self-insurance are subject to a fine, loss of the privilege of doing business in the state, or both such penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers, including farm operators and farm labor contractors, who employ one or more workers are subject to the workers' compensation obligation to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Connecticut Workers' Compensation Commission, Hartford, Connecticut 06106 (860-493-1500). The chairman of the Commission exercises supervision over the entire workers' compensation system. Each of the district commissioners has jurisdiction over all workers' compensation claims and questions which arise in his or her respective workers' compensation district, and each has authority to summon and examine witnesses, subpoena records, and apply to the appropriate state court for enforcement of the law. The commissioners-at-large have equivalent power in districts where they are assigned.

A worker who is injured on the job should notify the employer, who must report the facts of the injury to the Chairman's office within one week. A written notice of a claim for compensation must be filed by the injured worker within one year from the date of the accident which caused the personal injury, or within 3 years from the onset of symptoms of the occupational disease. If death has resulted within 2 years from the date of an accident or onset of symptoms of occupational disease, the dependents or legal representative of the deceased employee may make a claim either within the 2-year period or within one year from the date of death, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Del. Code Title 19, §§ 2301–2397

GENERAL SUMMARY: With few exceptions, the Workers' Compensation Law requires all employers in the state who employ one or more workers to assure the payment of compensation (including cash payments in lieu of wages, medical expenses and related benefits) to their employees who are injured in the course of their employment. Employers may satisfy their liability for compensation by purchasing a prescribed policy of workers' compensation insurance, or by providing the state with proof of their financial ability to pay compensation directly. The state workers' compensation statute limits the liability of subject employers for damages resulting from job-related injury or illness of their employees, while protecting workers against loss of income and other costs of injury or illness incurred on the job, regardless of the question of negligence and without the need to resort to court action.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Workers' Compensation Law does not apply to farm laborers or their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Office of Workers' Compensation, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

STATUTORY CITATION: Fla. Stat. §§ 440.01-440.60

GENERAL SUMMARY: Under the Workers' Compensation Law, most private employers in the state who have 4 or more employees are liable for the payment of medical services and supplies, cash disability benefits in lieu of wages, and death benefits to surviving dependents, in the case of any employee who is injured or killed in the course of employment, without regard to the question of negligence. An employer covered by this law may satisfy the obligation to pay compensation by securing a prescribed policy of workers' compensation insurance or through self-insurance. While workers' compensation insurance is not compulsory, a subject employer who fails to pay the required compensation subsequent to a worker's job-related injury, illness or death may not, in a suit brought by the worker or the worker's survivors to recover damages, defend the suit on the grounds that the injury was caused by the negligence of a co-worker, that the worker had assumed the risk of employment, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast to the coverage test for most non-agricultural industries, the Workers' Compensation Law applies only to those farm operators or other agricultural establishments that (1) employ 6 or more regular farm employees, (2) employ 12 or more seasonal farmworkers at any one time, (3) employ any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employ seasonal farmworkers for a cumulative period of more than 45 days in a calendar year. All such agricultural employers are liable for the payment of compensation to injured workers and are subject to all other provisions of the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609). This agency is responsible for receiving job injury reports from employers, processing claims for workers' compensation benefits, and assuring the payment of benefits to eligible injured workers or their dependents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Georgia

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ga. Code §§ 34-9-1 - 34-9-421

GENERAL SUMMARY: Georgia's workers' compensation law requires employers with 3 or more employees to provide workers' compensation benefits to employees who sustain work-related injuries, or to surviving dependents of employees whose death is caused by an employment-related accident. Workers' compensation benefits may include payment of medical bills, replacement of a portion of lost wages, vocational services and other benefits. An employer's obligation to compensate employees who are injured on the job may be satisfied by purchasing workers' compensation insurance from a state authorized workers' compensation insurer, or by providing the state administering agency with satisfactory proof of the employer's financial ability to pay compensation directly.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employers who voluntarily elect to provide coverage, the state workers' compensation law **does not apply** to farm employers or their workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - State Board of Workers' Compensation, Atlanta, Georgia 30303. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 386-1 - 386-214

GENERAL SUMMARY: The state workers' compensation law provides for the payment of medical care and rehabilitation costs, as well as income benefits for disability or death, whenever an employee suffers personal injury either by accident in the course of employment or by disease caused by or resulting from the nature of the employment. Legal liability for payment of such compensation rests exclusively with the employer, who may meet this obligation by (1) securing and maintaining in effect a prescribed workers' compensation insurance policy, (2) depositing with the state satisfactory security guaranteeing payment of compensation in case of injury to employees, (3) furnishing proof, satisfactory to the state administering agency, of the employer's financial ability to pay the required compensation, or (4) providing proof of membership in a workers' compensation self-insurance group. Employers who secure compensation are protected against all other liability stemming from an employee's injury. On the other hand, an employer who fails to comply with one of the four workers' compensation coverage options is subject to administrative penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law generally applies to all agricultural employers and protects all agricultural workers, to the same degree as employers and workers in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for any employer to suspend or discharge any employee solely because the employee suffers a work injury compensable under this law, unless the employer presents convincing proof that the employee will no longer be able to perform the duties of the job as a result of the injury and that the employer has no other available work which the employee is capable of performing. Any worker who is suspended or discharged because of such a work injury must be given first preference for re-employment by the employer in any position the worker is capable of performing and which becomes available at any time before the worker secures new employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200). The Department has authority to investigate an employer's liability for workers' compensation coverage and to compel the employer to secure compensation where compliance cannot be documented. In general, the agency may accept a claim for compensation benefits from any worker, or the worker's surviving dependents, within 2 years after the date when the effects of the injury involved become evident, and within 5 years after the date of the accident or occurrence which caused the injury.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Insurance Division, Department of Commerce and Consumer Affairs, Honolulu, Hawaii 96811 (808-586-2790). The state Insurance Commissioner is responsible for issuing certificates of approval to entities that meet the qualifications for self-insurance groups as prescribed in the workers' compensation law. The Commissioner has authority to order any person or business found in violation of the law to cease the unlawful practice involved, and in such cases may also impose monetary penalties and revoke the person or firm's certificate of approval or insurance license.

Idaho

WORKER'S COMPENSATION LAW

STATUTORY CITATION: Idaho Code §§ 72-101 - 72-806

GENERAL SUMMARY: The Worker's Compensation Law assures the payment of medical expenses and income benefits for most workers in Idaho who are injured on the job or in the course of employment, by imposing on most employers in the state the obligation to cover their employees with a prescribed workers' compensation insurance policy or to maintain adequate security to cover compensation claims directly. In general, employers who comply by purchasing workers' compensation insurance or depositing security as self-insurers are protected against any further legal liability for job injuries suffered by their employees, while injured workers and their dependents are protected against loss of income and inability to cover medical costs in the event of work-related injury or death.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker's Compensation Law generally applies to agricultural employers and workers to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Idaho Industrial Commission, Boise, Idaho 83720 (208-334-6000).* The Industrial Commission is responsible for regulating workers' compensation activities in Idaho, which includes overseeing companies that issue workers' compensation insurance policies, ensuring that employers have workers' comp coverage as required by law, and settling disputes between injured workers, their employers and insurers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

→ WORKERS' COMPENSATION ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 305/1 - 305/30

GENERAL SUMMARY: The Workers' Compensation Act requires most classes of employers in Illinois to insure the payment of medical expenses and income benefits to their employees who are injured on the job, by (1) filing an application with the state as a self-insurer, (2) furnishing a bond or other security guaranteeing payment by the employer of the required compensation, or (3) purchasing a prescribed policy of workers' compensation insurance.

Employers whose workers are fully insured for compensation benefits through one of these three options are not liable for damages stemming from injury or death to any worker in a job-related accident. At the same time, the Act provides covered workers with a state-supervised claims process which expedites the payment of benefits to a worker or a worker's surviving dependents without the need for court action and without regard to questions of negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: Every agricultural employer in Illinois who employed at least 400 worker-days of agricultural labor (other than immediate family members) in all four calendar quarters of the preceding calendar year is subject to the Workers' Compensation Act. Farmworkers employed by such agricultural establishments are generally entitled to workers' compensation benefits in the event of on-the-job injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Illinois Workers' Compensation Commission, Chicago, Illinois 60601 (312-814-6611). The Commission is charged with administering the Workers' Compensation Act and in that role is responsible for assuring that subject employers comply with the insurance or self-insurance obligation for the protection of their workers. A worker who suffers an accident on the job must notify the employer as soon as practicable, but no later than 45 days after the accident takes place. The employer is responsible for assuring the payment of compensation benefits to eligible claimants and must report to the Commission all occurrences which result in the loss of more than 3 scheduled workdays and indicate what benefits have been provided to each such injured worker.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ WORKERS' OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 310/1 – 310/27

GENERAL SUMMARY: The Workers' Occupational Diseases Act protects most workers in Illinois and their families against financial hardship caused by any disease arising out of and in the course of employment, or which has become aggravated and disabling as a result of on-the-job exposure. Employers subject to this law must obtain a prescribed insurance policy or provide other acceptable security separate and distinct from the insurance or security required under the Workers' Compensation Act, guaranteeing the payment of (1) cash income benefits, (2) medical, surgical, hospital and rehabilitation care, (3) burial costs, and (4) other required benefits to employees whose disability, impairment, disfigurement or death is caused by an occupational disease.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for agricultural enterprises which used less than 400 worker-days of agricultural labor in all four calendar quarters of the preceding calendar year, farm operators and other agricultural establishments must obtain occupational disease compensation insurance or post equivalent security with the state on behalf of their workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Illinois Workers' Compensation Commission, Chicago, Illinois 60601 (312-814-6611). The Commission has authority to inspect employer payroll records and related documents to ascertain employers' liability to provide coverage under the Act and to assure that subject employers have complied with the Act's coverage requirements. Notice of disablement arising from occupational disease must be given to the employer as soon as practicable after onset of the disease or symptoms. The employer is responsible for assuring payment of benefits to eligible claimants and must report to the Commission all occupational disease disabilities and the amount of compensation benefits provided in each such case.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ind. Code §§ 22-3-1-1 - 22-3-6-3

GENERAL SUMMARY: Indiana's workers' compensation law compels most employers in the state to insure the payment of compensation to their employees and employees' dependents in the event of personal injury or death by accident arising out of and in the course of employment. An employer may meet this obligation by purchasing a prescribed policy of workers' compensation insurance or obtaining a certificate from the state authorizing the employer to carry the risk without insurance. Employers who comply by either means are protected against any further liability for on-the-job injury or death of a worker. At the same time, a worker who is injured while working for such an employer is generally eligible for medical payments and income benefits without regard to the question of negligence or the need for litigation and delay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law does not apply to farm or agricultural employers or employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Worker's Compensation Board, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

○ WORKERS' OCCUPATIONAL DISEASES COMPENSATION LAW

STATUTORY CITATION: Ind. Code §§ 22-3-7-1 - 22-3-7-38

GENERAL SUMMARY: Indiana's workers' occupational diseases compensation law requires most employers in the state to provide, through prescribed workers' occupational disease compensation insurance or a state-issued certificate of self-insurance, for the payment of weekly income benefits, medical expenses, death benefits, and related compensation in the event of a worker's disablement or death by occupational disease arising out of and in the course of employment. Employers who secure the payment of such compensation are not liable to any further extent to any injured worker or the worker's survivors on account of such disablement or death, while covered workers are generally entitled to benefits under the Act without the need for court action.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' occupational diseases compensation law **does not apply** to farm and agricultural employers or their employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Worker's Compensation Board, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Iowa

STATUTORY CITATION: Iowa Code §§ 85.1 – 85.72

GENERAL SUMMARY: The lowa workers' compensation law requires every employer in the state not specifically exempted to pay weekly cash benefits, medical and rehabilitation expenses, and burial costs for any and all personal injuries sustained by an employee arising out of and in the course of the employment. Employers who secure workers' compensation insurance or equivalent coverage are generally relieved of any liability for damages in the event of an employee's injury or death on the job, and the employee or the employee's beneficiaries are entitled to compensation without regard to the question of negligence and normally without the need for litigation.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that paid at least \$2,500 in cash wages the previous year are liable in the current year for payment of workers' compensation benefits with respect to the injury or death of any of their employees. Correspondingly, an agricultural worker who, at the time of a job-related injury, was employed by an agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding calendar year is entitled to workers' compensation benefits; if the injury results in the worker's death, benefits are usually payable to the worker's surviving dependents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583). This agency is responsible for general administration of the workers' compensation law, and for resolving disputes between employees, employers and workers' compensation insurance carriers regarding liability for payment of benefits. Any worker injured on the job, or a dependent or representative of the worker, should notify the employer of any accident within 90 days of the date of occurrence. Failure to give notice within the 90-day period will nullify any claim for compensation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

IOWA OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Iowa Code §§ 85A.1 - 85A.27

GENERAL SUMMARY: The Iowa Occupational Disease Law entitles employees in most industries and occupations in the state to receive cash compensation, surgical and medical care, physical rehabilitation, nursing and hospital care, and related services and supplies in the event of incapacity or death due to injurious exposure to an occupational disease. In general, where such compensation is payable, the employer in whose service the employee was last exposed to the hazards of the occupational disease involved is liable for coverage, to the extent that the employer is subject to the state workers' compensation law.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers with a cash payroll of at least \$2,500 the previous year are generally liable for payment of compensation to any worker whose incapacity derives from exposure to an occupational disease while in their employ; the employer's liability is normally met by securing a standard policy of occupational disease compensation insurance. Correspondingly, compensation for disablement due to an occupational disease is generally payable to any agricultural worker who, at the time of the last injurious exposure to the disease, was employed by a farm operator or other agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583). This agency has statewide jurisdiction over the operation of the occupational disease compensation system, including the resolution of disputes concerning liability, disablement and benefits. A worker who is incapacitated due to an occupational disease must give written notice to the employer within 90 days after the first distinct manifestation of the disease, or risk losing eligibility for benefits. Likewise, in the case of death from an occupational disease, a written claim must be filed with the employer by the worker's survivors within 90 days after the worker's death.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

WORKERS COMPENSATION ACT

STATUTORY CITATION: Kan. Stat. §§ 44-501 - 44-5,127

GENERAL SUMMARY: The Workers Compensation Act provides that in the event of personal injury to an employee through an accident arising out of and in the course of any employment covered by the law, the employer is liable for the payment of compensation to the injured employee or the employee's surviving dependents. Compensation includes weekly cash payments to offset lost wages, payment of medical and rehabilitation expenses, payment of burial costs, and other benefits.

Subject employers must secure compensation coverage by (1) obtaining and keeping in force an approved policy of workers' compensation insurance, (2) furnishing proof to the state administering agency of financial ability to pay compensation as a self-insurer, or (3) maintaining membership in a qualified group-funded workers' compensation pool. Failure to pay compensation when due may result in a civil penalty against the employer or insurance carrier, payable to the claimant in addition to the required compensation.

With some exceptions, the obligation to insure against workplace accidents and injuries applies to all employers who pay more than \$20,000 in gross wages per year.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers Compensation Act does not apply to agricultural pursuits and employment incidental to agricultural operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers Compensation Division, Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

O OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: Kan. Stat. §§ 44-5a01 - 44-5a22

GENERAL SUMMARY: The Occupational Diseases Act declares that the disablement or death of a worker which results from an occupational disease must be treated as an injury by accident, provided the worker and the worker's employer are subject to the Workers Compensation Act. Covered workers disabled by an occupational disease (or the beneficiaries of workers whose death is caused by an occupational disease) are entitled to cash compensation, medical payments and other benefits under the Workers Compensation Act as if the disability or death were due to a compensable occupational injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as coverage extends only to those employees covered by the state workers' compensation law, the Occupational Diseases Act does not apply to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers Compensation Division, Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 342.0011 - 342.990

GENERAL SUMMARY: Kentucky's workers' compensation law makes most employers in the state liable for payment of compensation in the event of a worker's employment-related injury, occupational disease or death, without regard to fault as a cause. Employers subject to the law must either insure their liability through purchase of an approved workers' compensation insurance policy, or furnish satisfactory proof of their financial ability to pay compensation directly. Compensation payable on a valid claim includes periodic cash income benefits in lieu of lost wages, medical treatment, appropriate rehabilitation expenses, required supplies and appliances, and burial expenses.

If an employer secures payment of compensation as obligated, the employer is not subject to any further liability in connection with an employee's work-related injury or death. Failure, however, to comply with compensation coverage requirements gives an injured worker (or the surviving dependents of such a worker) the right to sue and recover damages in a civil action, and in any such action the employer may not plead as a defense that the worker's injury was caused by the negligence of a co-worker, that the worker had assumed the risks of the job, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law does not apply to any person employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Department of Workers' Claims, Frankfort, Kentucky 40601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Louisiana

■ LOUISIANA WORKERS' COMPENSATION LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:1020.1 - 23:1379

RELATED REGULATIONS: La. Admin. Code Title 40, Part I

GENERAL SUMMARY: Under the Louisiana Worker' Compensation Law, if a covered employee receives personal injury in an accident arising out of and in the course of employment, or is disabled by an occupational disease, the employer must pay compensation, consisting of (1) weekly cash disability payments to the worker, (2) cash death benefits and burial expenses to the worker's surviving dependents in the event of the worker's occupationally related death, (3) payment of medical, surgical and hospital services, medicines, prosthetic devices and related medical expenses, and (4) other specified costs.

An employer's liability may be met by means of a prescribed policy of workers' compensation insurance, self-insurance, or participation in a group self-insurance fund. Failure by an insurer or self-insuring employer to pay a valid claim within 60 days after receipt of notice of an injury may result in monetary sanctions against the insurer or employer, in addition to the amount of the claim due.

PROVISIONS APPLICABLE TO AGRICULTURE: With one notable exception, the Louisiana Worker's Compensation Law generally applies to agricultural and non-agricultural employers and employees alike.

EXCEPTION — The law **does not apply** to farmworkers who (1) are employed in the cultivation of the soil, or in the raising or harvesting of any agricultural commodity, by a private unincorporated farm with a total net payroll of \$2,500 or less, and (2) receive annual net earnings of \$1,000 or less.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Workers' Compensation Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-7555). This agency is responsible for monitoring injury and payment reports submitted by subject employers, and for helping to resolve disagreements between claimants, employers and insurers regarding coverage, eligibility for benefits and benefit payments. Any worker who is injured on the job or suffers disability due to an occupational disease should notify the employer as soon as possible, but in no case later than 30 days after the date of injury or onset of the disability. If at any time after notification of an occupationally related death, or an injury resulting in more than 7 calendar days' lost work time, a dispute arises over payment of compensation, or if the employer or insurer fails to pay compensation, the worker or dependent of the worker may file a Disputed Claim for Compensation (Form LWC-WC 1008) with a Workers' Compensation district office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

→ MAINE WORKERS' COMPENSATION ACT OF 1992

STATUTORY CITATION: Me. Rev. Stat. Title 39-A, §§ 101 - 409

GENERAL SUMMARY: The Workers' Compensation Act entitles most employees in the state to be paid compensation and furnished medical and related services by their employer in the event such employees are injured on the job. An employer may satisfy the obligation to pay compensation and furnish medical and related services by (1) securing a prescribed workers' compensation insurance policy, (2) providing the state administering agency with satisfactory proof of the employer's solvency and financial ability to pay compensation and cover medical and related costs as a self-insurer, or (3) applying to the state agency for approval to participate in a group self-insurance plan.

Any employer who has not complied with this requirement is not entitled, in a civil suit filed against the employer for job-related personal injury or death, to claim as a defense that the injury or death resulted from the worker's own negligence, that the injury or death was caused by the negligence of a co-worker, or that the worker had assumed the risk of injury or death. On the other hand, an employer who has secured the payment of required compensation is exempt from civil actions for damages involving personal injury or death on the job, and workers or their survivors in such cases are generally able to receive regular cash benefits and payment of medical expenses without having to resort to litigation.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EMPLOYMENT IN GENERAL — Agricultural employers who have employed more than 6 agricultural laborers for a combined total of 240 hours or more in any one week during the 52 weeks immediately preceding a job-related injury are subject to the Workers' Compensation Act, and such workers are entitled to workers' compensation benefits in the event of occupational injury.

Employers of 6 or fewer regular agricultural workers — and those with more than 6 who do not meet the 240-hour threshold — must also provide coverage, unless they maintain an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural laborers employed, and medical payment coverage of not less than \$5,000.

SEASONAL OR CASUAL EMPLOYMENT — Employers of workers engaged in agriculture as seasonal or casual laborers must secure workers' compensation coverage for each such worker, unless they maintain an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

SPECIAL NOTES OR ADVISORIES

EXEMPT-STATUS BURDEN OF PROOF — The burden of proof to establish exempt status as an agricultural employer with liability insurance coverage in lieu of workers' compensation, as described above, is on the employer claiming the exemption. Nevertheless, whenever an agricultural employer files a motion with the Workers' Compensation Board claiming exemption, any worker involved may file a reply within 5 days, together with affidavits, records and other evidence supporting the claim that the employer does not fall within an agricultural exemption. If the Board rules in favor of the employer, the worker may appeal the decision to the Board's appellate division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087). The Board is charged with ensuring that the state workers' compensation system operates efficiently and with maximum benefit to both employers and employees. The Board must monitor individual compensation cases in order that injured employees and their dependents receive the full amount of compensation to which they are entitled under the Act. Any worker injured in a job-related accident should notify the employer as soon after the injury as possible, but in any event no more than 30 days after the date of injury. If the employer fails to provide compensation, or if a dispute should arise over the employer's liability to make or continue making compensation payments, a petition may be filed with the Board. In general, any worker's claim for compensation under the Act will be barred unless a petition is filed within 2 years after the date of injury, or the date the employer files a required first report of injury, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 39-A, §§ 601 - 615

GENERAL SUMMARY: The Occupational Disease Law clarifies that a worker's death or incapacity to work which arises out of and in the course of employment and results from an occupational disease must be treated as a personal injury within the meaning of the Workers' Compensation Act, and all provisions of the Workers' Compensation Act apply to such occupational diseases.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EMPLOYMENT IN GENERAL — Full-time or regular farmworkers in Maine must be protected by workers' compensation insurance or equivalent compensation coverage in the event of disablement due to occupational disease if they are employed by an employer who has employed more than 6 agricultural laborers for a combined total of 240 hours or more in any one week during the 52 weeks immediately preceding such disablement. Full-time or regular workers employed by any other agricultural employer must also be covered, unless the employer maintains an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural laborers employed, and medical payment coverage of not less than \$5,000.

SEASONAL OR CASUAL EMPLOYMENT — Seasonal or casual agricultural workers must be covered by a workers' compensation insurance policy or equivalent compensation coverage which pays benefits for occupational disease disablement, unless the employer maintains an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

SPECIAL NOTES OR ADVISORIES

EXEMPT-STATUS BURDEN OF PROOF — The burden of proof to establish exempt status as an agricultural employer with liability insurance coverage in lieu of workers' compensation, as described above, is on the employer claiming the exemption. Nevertheless, whenever an agricultural employer files a motion with the Workers' Compensation Board claiming exemption, any worker involved may file a reply within 5 days, together with affidavits, records and other evidence supporting the claim that the employer does not fall within an agricultural exemption. If the Board rules in favor of the employer, the worker may appeal the decision to the Board's appellate division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087). A worker who becomes disabled by an occupational disease, or the surviving dependents of a worker whose death is caused by such a disease, should notify the worker's most recent employer as soon after the disablement or death as possible. If the employer fails to provide compensation, or if a dispute over the employer's liability to make or continue making compensation payments should arise, the worker or the worker's dependents may file a petition with the Board. Any such claim may generally be barred unless it is filed within 2 years after onset of the disease, or the date the employer files a required first report of injury, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

→ MARYLAND WORKERS' COMPENSATION ACT

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 9-101 - 9-1201

GENERAL SUMMARY: The Workers' Compensation Act requires most employers who have one or more employees in Maryland to pay or provide monetary compensation for the job-related disability or death of an employee, without regard to fault. Such compensation encompasses, among related benefits, regular cash payments in lieu of lost wages, payment of medical and medically related expenses, and funeral costs.

An employer subject to the Act must meet this obligation by (1) maintaining insurance with an authorized insurer, (2) furnishing the state with satisfactory proof of the employer's financial ability to pay compensation as a self-insurer, or (3) participating in an approved self-insurance group plan. If an employer fails to exercise one of these three options, an injured employee or a legal representative may elect to claim compensation under the Act anyway, or may file a civil action in the courts for damages on account of such injury. In any such action, the employer may not plead as a defense that the injury was caused by the negligence of a fellow worker, that the worker had assumed the risk of employment, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that have 3 or more full-time employees, or have a yearly payroll for full-time employees amounting to at least \$15,000, are subject to the Workers' Compensation Act. In general, a farmworker who receives pay from such a farm employer is entitled to workers' compensation in the event of a job-related accident, or disablement due to an occupational disease, which occurs while the worker is so employed. The Act does not, however, cover farmworkers (other than those operating machinery or equipment) who are employed within 25 miles of their permanent place of residence and for only 13 weeks or less during the year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge an employee because the employee has filed a workers' compensation claim. Violation of the ban on retaliation may result in criminal prosecution and, upon conviction, a fine, imprisonment, or both.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297). The Commission is responsible for assuring employer compliance with the obligation to secure required compensation. Notice of injury must generally be given to the employer within 10 days after the accident (or within 30 days after a death resulting from such an accident), and failure to do so will usually bar any claim for compensation. A subsequent claim for benefits must generally be filed with the Commission within 60 days after the date of the accidental injury (or, when death results from the injury, within 18 months from the date of death). The Commission must investigate each claim filed, order a hearing upon the request of either the employer or the worker, and grant or deny an award within 30 days after the claim is filed or the hearing is concluded.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 152, §§ 1 - 86

GENERAL SUMMARY: The Massachusetts workers' compensation law compels most employers in the state to provide compensation to their employees who suffer personal injury in the course of their employment. Compensation includes (1) weekly cash benefits for incapacity, (2) the furnishing of medical and hospital services, required medicines, physicians' services, and payment of related costs, and (3) payment of death benefits and funeral costs.

An employer may meet the obligation to provide compensation by purchasing a standard workers' compensation insurance policy, or by obtaining from the state an annual license as a self-insurer. Self-insurers are required to deposit certain security with the state treasurer or furnish a surety bond, payable to the state. In addition to continued liability to the employee, failure by an employer to provide required compensation to an employee injured in a job-related accident is punishable as a criminal offense.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies implicitly to all agricultural employers in Massachusetts, to the same extent as employers in other sectors, and farmworkers are entitled to workers' compensation benefits on the same terms as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249). The Department is responsible for assuring the payment of workers' compensation to employees covered by the law who suffer compensable injury. A worker who is injured on the job should promptly notify the employer, who in turn is required to advise the Department of the injury within 48 hours. Within 14 days of receipt of the worker's notice of injury, the employer or the employer's insurer must either commence payment of weekly benefits or advise the worker and the Department of its intention to contest the claim. In the event of a controversy over eligibility for compensation or the ongoing payment of benefits, the Department is charged with investigating the facts and rendering a final administrative decision, reviewable by the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

■ WORKER'S DISABILITY COMPENSATION ACT OF 1969

STATUTORY CITATION: Mich. Comp. Laws §§ 418.101 - 418.941

GENERAL SUMMARY: The Worker's Disability Compensation Act provides generally that an employee who receives a personal injury (including a disabling occupational disease) in the course of employment with an employer subject to the Act must be paid compensation. Among the benefits to which covered employees are entitled are (1) weekly wage-loss payments, (2) medical, surgical and hospital services, medicines, and related medical care, (3) vocational rehabilitation services, and (4) death benefits.

With some exceptions, every Michigan employer who regularly employs 3 or more workers at one time is required to secure the payment of compensation by (1) obtaining authorization from the state as a self-insurer or part of a self-insurance group, which may involve the posting of a surety bond or other security, or (2) purchasing a workers' compensation insurance policy from a commercial insurer. An employer who fails to comply with the obligation to secure compensation under one of these two options is subject to a \$1,000 fine, a jail sentence of up to 6 months, or both, each day's failure being a separate offense. Moreover, an injured worker whose employer has not secured workers' compensation coverage is entitled to recover damages from the employer in a civil action, and the employer may not plead as a defense in any such action that the worker's injury was due to the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risks inherent in the employment.

PROVISIONS APPLICABLE TO AGRICULTURE

FULL COVERAGE — A farm operator or other agricultural establishment which has 3 or more regular workers who (1) are paid hourly wages or salaries, but not on a piecework basis, and (2) worked for the employer at least 35 hours a week for 13 or more consecutive weeks during the preceding 52 weeks, is subject to all provisions of the Worker's Disability Compensation Act, but coverage applies only to such regularly employed workers.

PARTIAL COVERAGE — All agricultural employers who employ at least one worker for 35 or more hours a week for at least 5 consecutive weeks must provide such workers with medical and hospital coverage (including medical, surgical and hospital services, medicines, and related medical care) for job-connected personal injuries. Such workers are not, however, entitled to weekly wage-loss payments, vocational rehabilitation services, or the other benefits payable to eligible employees fully covered under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Agency, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (toll-free 888-396-5041). This agency is responsible for assuring compliance with the employer's obligation to provide compensation, and for resolving disputes regarding eligibility for and payment of workers' compensation benefits. A worker who is injured on the job, or disabled by an illness that was caused or aggravated by conditions at the workplace, should notify the employer as soon after the accident or onset of disability as possible. In general, compensation is due and payable on the 14th day after the employer receives such notice. Any disagreement over the compensability of an injury or disability, or any dispute concerning the continuation of benefits, should be reported to the agency for investigation and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

STATUTORY CITATION: Minn. Stat. §§ 176.001 - 176.862

GENERAL SUMMARY: The Minnesota workers' compensation law makes most employers in the state liable for compensation in every case of personal injury or death of an employee arising out of and in the course of employment, without regard to the question of negligence. Depending on the circumstances of each such case, compensation benefits may include, among others, (1) weekly cash payments to the employee in lieu of lost wages, (2) medical, surgical and hospital treatment, medicines, supplies and related items, and (3) death benefits. To meet their liability, subject employers must either purchase workers' compensation insurance coverage through a commercial insurance carrier, or obtain authorization from the state as a self-insurer. An employer who fails to secure the payment of compensation risks substantial monetary penalties.

With some exceptions, the obligation to provide compensation to their injured employees applies to anyone who employs another person to perform a service for hire.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworkers employed by a farm operator or other agricultural establishment which paid at least \$8,000 in cash wages for farm labor in the preceding calendar year are entitled to workers' compensation in the event of injury, disability or death sustained in the course of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5005; toll-free 800-342-5354). The Division is responsible for monitoring compliance with the workers' compensation law and for resolving disputes between workers, employers and insurance carriers regarding claims and benefits. In general, compensation must commence within 14 days of notice to the employer of a compensable injury. No benefits are due until the employer has actual knowledge of the occurrence of the injury or receives written notice of the incident from the worker or a dependent of the worker. Moreover, as a rule, an action or proceeding to determine or recover compensation must be initiated within 6 years of the date of the accident on which the claim is based.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Miss. Code §§ 71-3-1 - 71-3-225

GENERAL SUMMARY: The Workers' Compensation Law makes most Mississippi employers liable for certain specified benefits, including payment of medical costs and cash compensation, for the disability or death of an employee from injury or occupational disease arising out of and in the course of employment, without regard to fault. An employer subject to the law must insure payment of such compensation by purchasing a prescribed workers' compensation insurance policy, or furnish the state with proof of financial ability to pay compensation directly. Failure to secure payment of compensation as required is a misdemeanor, punishable by fine, imprisonment, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: While the Workers' Compensation Law applies to the commercial processing of agricultural products, it **does not apply** to farmers or farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Mississippi Workers' Compensation Commission, Jackson, Mississippi 39216. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Missouri

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 287.010 - 287.975

GENERAL SUMMARY: The Workers' Compensation Law requires most Missouri employers who have 5 or more employees to furnish compensation for personal injury or death of an employee resulting from an on-the-job accident or occupational disease, irrespective of negligence. Depending on the circumstances of the case, workers' compensation benefits may include, among others, (1) regular cash payments to the employee or the employee's dependents, to compensate for lost wages, (2) payment of medical costs associated with treatment, recovery and rehabilitation, (3) benefits for permanent partial disability, (4) benefits for permanent total disability, and (5) death benefits.

Every employer subject to the Workers' Compensation Law must meet the obligation to provide compensation by obtaining either a workers' compensation insurance policy through a commercial insurance carrier, or authorization from the state to cover the liability as a self-insurer. If an employer fails to comply with one of these two options, an injured employee or the employee's dependents may elect to bring suit against the employer to recover damages for personal injury or death, and the employer is barred from using as a defense in any such action that the employee had assumed the risk of the injury, or that the injury was caused by the worker's own negligence or the negligence of a co-worker.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law **does not apply** to employment of labor in the operation of a farm or the production of agricultural crops.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Workers' Compensation, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

Montana

WORKERS' COMPENSATION ACT

STATUTORY CITATION: Mont. Code §§ 39-71-101 - 39-71-4004

GENERAL SUMMARY: The Workers' Compensation Act requires most employers in Montana to enroll in one of three compensation plans, all of which guarantee the payment of medical costs and wage compensation benefits in the event of a worker's accidental job-related injury or death. Plan 1 provides for payment of compensation directly by the employer, who must furnish the state administering agency with proof of solvency and financial ability to pay claims as a self-insurer. Under Plan 2, the employer insures the liability to pay benefits by purchasing a standard workers' compensation insurance policy from a commercial insurance carrier. Plan 3 requires the employer to pay premiums into a state compensation insurance fund, which in turn pays benefits to the employees of participating employers for compensable personal injury or death.

Any employer subject to the Act who has not properly complied with the requirement to enroll in a workers' compensation plan will be ordered to cease operations until coverage is secured. An injured worker who is employed by an uninsured employer, and who is otherwise eligible for compensation, is entitled to benefits through the state uninsured employer's fund, but if the worker or the worker's beneficiaries elect to take civil action to recover damages for the injury, the uninsured employer may generally not plead as a defense that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risks inherent in the employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Act applies to agricultural employers and protects agricultural workers in Montana to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Regulation Bureau, Employer Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-1555). The Department is responsible for enforcement of the employer's obligation to enroll in a workers' compensation plan, and for assuring the timely processing of claims and payment of benefits. A worker who is injured on the job generally must file a report of the accident with the employer within 30 days thereafter in order to realize benefits. A claim for compensation based on such an injury must be filed with the Department, the employer, or the employer's insurer, depending on the compensation plan involved, but as a rule, a decision on the claim must be made within 30 days of receipt. A claimant who has a dispute concerning benefits may petition a workers' compensation judge for a determination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

■ NEBRASKA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-101 - 48-1,118

GENERAL SUMMARY: Under the Nebraska Workers' Compensation Act, when personal injury is caused to an employee by accident or occupational disease arising out of and in the course of employment, the employee is generally entitled to compensation from the employer as long as the employee was not willfully negligent at the time the injury was received. Workers' compensation includes, among other potential benefits, (1) medical, surgical and hospital services, and (2) cash payments to the employee in lieu of lost wages due to disability. If an employer does not carry a policy of workers' compensation insurance or qualify as a self-insurer, in any lawsuit by a worker or a worker's surviving dependents to recover damages for personal injury or death, the employer loses the right to claim as a defense that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risks inherent in the job.

With some exceptions, the Act applies to every employer in Nebraska who has one or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: An agricultural establishment is required to carry workers' compensation insurance covering its employees, or qualify as a self-insurer, if it employs 10 or more unrelated full-time workers on each working day for 13 calendar weeks in any calendar year. The employer's obligation to comply begins 30 days after the 13th such week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nebraska Workers' Compensation Court, Lincoln, Nebraska 68509 (402-471-6468; toll-free 800-599-5155). The Workers' Compensation Court administers and enforces most aspects of the workers' compensation system, including the resolution of disputed claims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of the Attorney General, Lincoln, Nebraska 68509 (402-471-2683). The Attorney General represents the state when lawsuits arise in connection with liability for payment of benefits. The Attorney General has authority to settle such suits, with approval of the Workers' Compensation Court.

Nevada

O NEVADA INDUSTRIAL INSURANCE ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 616A.005 - 616D.620

GENERAL SUMMARY: Under the Nevada Industrial Insurance Act, every subject employer must provide compensation for all accidental personal injuries sustained by an employee which arise out of and in the course of employment. Compensation may include the payment of medical costs associated with the injury, and cash benefits to the worker or the worker's dependents for disability or death.

To meet the liability for compensation, an employer may either secure coverage through private insurance companies, join an association of self-insured employers, or qualify as a self-insured employer by establishing to the satisfaction of the state insurance commissioner that the employer has sufficient resources to make prompt payment of compensation and depositing with the commissioner a bond or other security of at least \$100,000. An employer's failure to obtain insurance may result in an order for immediate cessation of the employer's business operations, as well as criminal prosecution.

PROVISIONS APPLICABLE TO AGRICULTURE: The Nevada Industrial Insurance Act does not apply to anyone engaged in farm, dairy, agricultural or horticultural labor, unless the employer voluntarily agrees to furnish coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Workers' Compensation Section, Division of Industrial Relations, Nevada Department of Business and Industry, Carson City, Nevada 89703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O NEVADA OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 617.010 - 617.510

GENERAL SUMMARY: The Nevada Occupational Diseases Act makes most employers in the state liable for the payment of compensation for occupational diseases sustained by their employees which arise out of and in the course of their employment. Every covered worker who is disabled because of an occupational disease, or the dependents of a worker whose death is caused by such a disease, are entitled to payment of the associated medical expenses, cash disability benefits, and death benefits, as the facts may warrant.

Employers may meet their liability for occupational disease compensation by securing coverage through private insurance companies, joining an association of self-insured employers, or qualifying as a self-insured employer by establishing to the satisfaction of the state insurance commissioner that the employer has sufficient resources to make prompt payment of compensation. The Act prescribes both civil and criminal penalties for failure by an employer to secure and provide occupational disease compensation as required.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where coverage is provided by the employer voluntarily, the Nevada Occupational Diseases Act **does not apply** to anyone engaged in farm, dairy, agricultural or horticultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Workers' Compensation Section, Division of Industrial Relations, Nevada Department of Business and Industry, Carson City, Nevada 89703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 281-A:1 - 281-A:70

GENERAL SUMMARY: The Workers' Compensation Law generally requires employers in New Hampshire who have one or more employees to provide compensation for accidental personal injury, occupational disease or death of any employee which arises out of and in the course of employment. Among the benefits to which covered workers and their dependents are entitled in the event of a compensable injury, illness or death are (1) weekly cash payments in lieu of lost wages, and (2) payment of medical, hospital and remedial care related to the injury.

Subject employers generally must secure compensation by (1) purchasing a prescribed workers' compensation insurance policy from a commercial carrier, or (2) furnishing satisfactory proof to the state administering agency of financial ability to pay the required compensation directly. An employer who fails to comply with the obligation to secure compensation is subject to civil money penalties and suspension of the right to do business in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law applies to agricultural employers with one or more employees, protecting agricultural workers to the same extent as workers in covered non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). The Department is responsible for enforcing compliance with the employer's obligation to secure and pay required compensation for job-connected injuries, and for resolving disputes involving eligibility for and continued payment of workers' compensation benefits. A worker who is injured on the job should report the injury to the employer as soon as possible; under normal circumstances, a claim for compensation is barred unless notice is given within 2 years from the date of injury. In every case of injury or death reported by a worker or by the worker's dependents, the insurance carrier or the employer must either commence timely payment of compensation, or provide the claimant with a written notice showing a valid reason for denial and explaining the claimant's right to petition the Department for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:15-1 - 34:15-128.5

GENERAL SUMMARY: New Jersey's workers' compensation law provides that in all pursuits other than casual labor, an employee who suffers accidental personal injury on the job or is disabled by an occupational disease is entitled to receive compensation for such injury from the employer, provided the employee was not willfully negligent at the time of the injury or disease. Furthermore, the right to compensation cannot be denied on the grounds that the injury was caused by the negligence of a co-worker or that the injured worker had assumed the risks inherent to the job.

To satisfy the liability for compensation, at the same time averting litigation in which these defenses could not be raised, an employer must have workers' compensation coverage, which entails either purchasing a prescribed policy of workers' compensation insurance or applying to the state for exemption as a self-insurer. An employer is presumed to have coverage at the time of hiring, but with or without coverage, the employer remains liable for payment of each injured worker's medical expenses, as well as regular cash disability or death benefits for the worker or the worker's surviving dependents.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies to all farm operators and other agricultural establishments in New Jersey with one or more employees, to the same extent as employers in covered non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discharge or discriminate in any other manner against an employee because the employee has made or attempted to make a claim for workers' compensation benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515). This agency is responsible for assuring compliance with the workers' compensation law by subject employers. In general, a claim for compensation is not payable unless the employer is notified of the injury involved within 14 days of its occurrence. If a disagreement should arise over a claim for benefits, the worker or the worker's dependents must submit the claim to the Division, which is the appropriate forum for adjudicating disputes concerning questions of fact, the nature and effect of the injury, and the amount of compensation payable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Enforcement of a claim against an employer who is subject to the law but does not have workers' compensation coverage requires legal action by the worker in the workers' compensation court, through a private attorney or public legal service provider. A worker in that situation may apply for benefits through the Uninsured Employer's Fund.

New Mexico

STATUTORY CITATION: N.M. Stat. §§ 52-1-1 - 52-1-70

GENERAL SUMMARY: The Workers' Compensation Act requires most New Mexico employers who have 3 or more workers to pay compensation to any such worker who is injured in a job-related accident, or to compensate the dependents of such a worker whose death stems from a job-related accident. Compensation includes the payment of medical costs incurred as a result of the worker's injury or death, and cash disability or death benefits in lieu of lost wages. For permanent partial disability, benefits are paid for a fixed period of time, based on the percentage of disability and the part of the body that is injured.

Every employer subject to the Act must meet the liability for payment of compensation either by filing proof of workers' compensation insurance coverage or comparable security with the state administering agency, or by applying to the state agency for a certificate as a self-insurer. The state agency is authorized to apply to district court to enjoin from further business operations in the state any employer who fails to file the required evidence of compliance.

PROVISIONS APPLICABLE TO AGRICULTURE: As written, the Workers' Compensation Act does not apply to farm and ranch laborers, but please see special note below.

SPECIAL NOTES OR ADVISORIES

INVALIDATION OF FARM AND RANCH LABOR EXCLUSION — In an opinion issued on June 30, 2016 (Rodríguez v. Brand West Dairy, 2016-NMSC-029), the New Mexico Supreme Court found that the exclusion of farm and ranch workers from coverage of the Workers' Compensation Act violates Article II, Section 18 of the New Mexico Constitution and amounts to arbitrary discrimination. Consequently, workers' compensation claims filed by farm and ranch workers after August 4, 2016, are covered to the same extent as claims by other covered employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125 (505-841-6000; toll-free 800-255-7965).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O NEW MEXICO OCCUPATIONAL DISEASE DISABLEMENT LAW

STATUTORY CITATION: N.M. Stat. §§ 52-3-1 - 52-3-60

GENERAL SUMMARY: With very few exceptions, the New Mexico Occupational Disease Disablement Law makes every employer in the state liable for the payment of compensation to any employee who suffers total disablement by reason of an occupational disease arising out of the worker's employment, or compensation for the dependents of any such worker whose death results from such an occupational disease. Compensation includes the payment of medical expenses associated with the compensable disease or death, as well as cash benefits to the worker or the worker's dependents to cover loss of wages.

To meet the liability for occupational disease compensation, subject employers are required either to submit proof of occupational disease compensation insurance coverage or comparable security to the state administering agency, or to apply to the state for a certificate of exemption as a self-insurer. Failure by an employer to evidence compliance may result in loss of authority to continue business operations in New Mexico.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employers who elect coverage voluntarily, the New Mexico Occupational Disease Disablement Law does not apply to employers of agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

→ WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 1 - 401

GENERAL SUMMARY: The Workers' Compensation Law requires most New York employers with one or more workers engaged in certain specified hazardous occupations to provide compensation for the disability or death of an employee from an injury or occupational disease connected with the job, generally without regard to fault as a cause. Among the principal benefits for which the employer is responsible in such cases are payment of the cost of the worker's medical treatment and related care, and cash payments to the worker or the worker's surviving dependents to offset the loss of wages.

Employers subject to the law must secure the payment of compensation by either paying premiums to the state insurance fund, purchasing a commercial workers' compensation insurance policy, or furnishing the state with proof of financial ability to pay compensation directly. An employer who fails to obtain coverage under one of these three options is criminally liable.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator who, in the preceding calendar year, paid cash remuneration of \$1,200 or more for farm labor must provide workers' compensation coverage to all farm laborers employed during any part of the 12 consecutive months beginning April 1 of the current calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830). The Board is solely responsible for administration and enforcement of the workers' compensation program. In general, notice of a worker's injury or death on the job must be given to the employer within 30 days of its occurrence, and the employer is obligated to report an injury within 10 days after an accident. The employer must promptly provide such medical, surgical and related treatment as the injury or recovery process may require, and is liable for those expenses. Under most circumstances, a claim for compensation is not valid unless it is filed within 2 years of the worker's injury or death (or within 2 years of disablement, in the case of an occupational disease). Any dispute between the worker and an insurance carrier or employer regarding a compensation claim, continuation of benefits, or payment of medical costs may be appealed to the Board.

North Carolina

■ NORTH CAROLINA WORKERS' COMPENSATION ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 97-1 - 97-200

GENERAL SUMMARY: The North Carolina Workers' Compensation Act renders most private employers in the state who have 3 or more regular employees, liable for the payment of compensation for any employee injured in a job-related accident or disabled by an occupational disease. Among other benefits, compensation includes the cost of medical treatment and regular cash payments to the worker or the worker's dependents to offset loss of wages.

Every employer subject to the Act must either (1) secure coverage through a commercial policy of workers' compensation insurance, or (2) obtain a license from the state as evidence of financial ability to pay compensation directly. Failure to evidence compliance under one of these two options may lead to an administrative fine and criminal prosecution.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators who regularly employ 10 or more full-time non-seasonal farm laborers are subject to the Workers' Compensation Act, and farm laborers — even seasonal workers — employed by such an establishment are entitled to workers' compensation benefits for accidental injury, occupational disease or death sustained in the course of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Unit, North Carolina Industrial Commission, Raleigh, North Carolina 27699 (919-807-2525; toll-free 800-688-8349). The Commission is established under the Workers' Compensation Act to administer and enforce the state workers' compensation system. An employee or the representative of an employee who is injured or killed in a job-related accident, or disabled as a result of an occupational illness, must promptly notify the employer, normally within 30 days of the injury, death or disablement. An employer subject to the Act is immediately liable for required medical treatment and supplies, and if the worker is disabled by the injury, the employer is generally liable for compensation payments after the first 7 days of disability. The right to compensation, however, is barred unless a claim is filed within 2 years after the accident or onset of the illness involved. Any worker who has a dispute with an employer or insurance carrier regarding eligibility for compensation, or over the amount or duration of benefits, may apply to the Commission for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 65-01-01 - 65-10-03

GENERAL SUMMARY: Every employer subject to North Dakota's workers' compensation law is required to pay premiums to the Workforce Safety and Insurance Fund, the assets of which are used to pay for medical, surgical and hospital services and supplies required by covered employees who are accidentally injured in the course of employment with a subject employer. If an accident results in death, or a disability of 5 days or more, the Fund will also pay cash benefits to protect the worker's dependents against loss of income.

Provided the employer is duly insured, the payment of compensation by the state for an employee's work-related injury generally relieves the employer of all further liability. On the other hand, an employer who fails to secure workers' compensation coverage is subject to criminal penalties and is liable to each employee for damages suffered by reason of injury sustained in the course of employment. In a damage suit by a worker or a worker's dependents against an uninsured employer, the employer may not claim as a defense that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risks involved in the job.

PROVISIONS APPLICABLE TO AGRICULTURE: North Dakota's workers' compensation law applies only to "hazardous employment," the statutory definition of which explicitly excludes agricultural service. Hence, the law does not apply to agricultural employers or workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - North Dakota Workforce Safety and Insurance, Bismarck, North Dakota 58503. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4123.01 - 4123.932

GENERAL SUMMARY: With very few exceptions, the workers' compensation law guarantees that every employee in Ohio who is injured or who contracts an occupational disease in the course of employment, and the dependents of any employee who dies as a result of a work-related accident or occupational disease, are entitled to cash compensation, medical treatment, medicines, and related benefits. The financial responsibility for providing such benefits is on the employer, who may either pay annual premiums to the state workers' compensation fund, or present evidence of ability to pay required compensation directly. Self-insured employers must obtain a surety bond to cover any default in the payment of required benefits.

An otherwise eligible worker who suffers a compensable injury or contracts an occupational disease while working for an employer who has failed to comply with the obligation to secure compensation may file a claim and receive benefits from the state fund; every such claim becomes a lien against the employer's property, payable to the state. Furthermore, non-complying employers are liable to their employees for damages suffered in a work-connected injury, and to the employees' dependents where death results from the injury; in any suit to recover damages the employer is barred from claiming as a defense that the injury was due to the negligence of the worker or that of a co-worker, or that the worker had assumed the risks inherent to the employment. Failure to comply is also punishable as a criminal offense.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employers in virtually all other industries, farm operators and other agricultural establishments with one or more workers in their service are required to provide coverage under the workers' compensation law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292). The Bureau is responsible for (1) determining the liability of employers for workers' compensation coverage and enforcing the payment of premiums or equivalent compliance by subject employers, and (2) processing workers' compensation claims filed by workers and surviving dependents and paying benefits for valid claims. A worker who is injured on the job or disabled by an occupational disease, or the dependents of a worker whose death is related to such an injury or disease, may file a claim in person, by phone, or online at https://www.bwc.ohio.gov/bwccommon/forms/froi/default.asp.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

○ ADMINISTRATIVE WORKERS' COMPENSATION ACT

STATUTORY CITATION: Okla. Stat. Title 85A, §§ 1 - 125

GENERAL SUMMARY: The Administrative Workers' Compensation Act requires most Oklahoma employers to provide compensation for the disability or death of their employees which results from an accidental on-the-job personal injury or an occupational disease, generally without regard to fault. Compensation includes, among other potential benefits, (1) medical and surgical treatment, medicines and related services, and (2) cash payments to the worker or the worker's dependents to compensate for lost wages.

To meet the liability for such benefits, every employer subject to the Act generally must either purchase a workers' compensation insurance policy from a commercial carrier, or furnish proof to the state administering agency of financial ability to provide compensation as a self-insurer. Employers who fail to secure compensation are liable for a civil penalty of up to \$10,000. In the event a non-complying employer is sued for damages by a worker or the surviving dependents of a worker injured or killed in the course of employment, the employer loses the right to use as a defense in court that the injury was caused by the negligence of the worker or a co-worker, or that the worker had assumed the risk of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act does not apply to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

STATUTORY CITATION: Okla. Stat. Title 85A, §§ 200 - 213

GENERAL SUMMARY: Under certain conditions, the Employee Injury Benefit Act allows any employer subject to the Administrative Workers' Compensation Act (see preceding entry) to opt out of it and establish a written benefit plan that provides essentially the same benefits for the work-related injury or death of their employees as required by the Workers' Compensation Act. Employers who opt out in favor of this law must obtain and keep in force a prescribed insurance policy or surety bond evidencing the employer's ability to pay required medical costs, death benefits and loss of wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Employee Injury Benefit Act applies to employees to the same extent as the term is defined in the Administrative Workers' Compensation Act, described in the previous entry. Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act — and thus the Employee Injury Benefit Act — does not apply to agricultural workers.

SPECIAL NOTES OR ADVISORIES

CONSTITUTIONALITY — In an opinion issued on September 13, 2016 (Vásquez v. Dillard's, 2016 OK 89), the Oklahoma Supreme Court ruled the Oklahoma Employee Injury Benefit Act creates an "impermissible select group of employees seeking compensation for work-related injuries for disparate treatment," and is therefore "an unconstitutional special law."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 656.001 - 656.990

GENERAL SUMMARY: The Workers' Compensation Law obligates most employers in Oregon to maintain assurance with the state administering agency that each of their workers and the workers' beneficiaries will receive compensation in the event of the accidental injury or death of the worker in the course of employment, and that the cost of medical treatment and related services connected with the injury will be borne by the employer, who must either purchase a policy of workers' compensation insurance or qualify as a self-insurer.

Employers who comply with the obligation to secure compensation are generally protected against all other liability stemming from the accidental injury or death of an employee. On the other hand, a damage suit may be brought by an injured worker, or the legal representative of an injured worker, against any employer who has failed to cover its employees or is in default on its premiums, fees or deposits. In any such action, the employer is fully liable as if the Workers' Compensation Law had never been enacted, and the employer loses the right to claim as a defense that the worker's injury was caused by the negligence of a co-worker, that the injured worker's own negligence contributed to the accident, or that the injured worker had knowledge of the danger or assumed the risk that resulted in the injury. Non-compliance also subjects the employer to civil money penalties, a criminal fine, and loss of the right to employ workers in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Like most other employers in the state, any farm operator and other agricultural establishment in Oregon who employs one or more workers is required to protect them with workers' compensation insurance or qualify as a self-insurer.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm operator contracts with a farm labor contractor for the performance of agricultural services in the normal course of the farmer's business, the farm operator is responsible for providing workers' compensation coverage for the workers performing the services, unless the labor contractor provides such coverage before services under the contract commence.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288). The Division is responsible for enforcing compliance with the employer's obligation to secure workers' compensation coverage, and for assuring the payment of benefits for compensable injuries. As a condition for approval of most claims for compensation, any accident which results in an injury or death must be reported to the employer no later than 90 days after the accident. If the injury is compensable, the insurance carrier or the self-insured employer must provide immediate and continuing medical treatment for conditions resulting from the injury. The first installment of compensation must be paid within 14 days after the employer has knowledge of the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Hearings Division, Workers' Compensation Board, Salem, Oregon 97302 (503-378-3308). Any dispute that arises between a worker (or a worker's surviving dependents) and the employer or insurance carrier regarding eligibility for, the amount of, or the duration of benefits may be referred to the Hearings Division.

OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 656.802 - 656.807

GENERAL SUMMARY: Any disease or infection which arises out of and in the course of a worker's employment, and to which the worker is not ordinarily exposed other than on the job, is considered an injury for purposes of the Workers' Compensation Law and hence may entitle the worker to compensation payments and medical benefits.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the Workers' Compensation Law generally applies to all farm employment, the Occupational Disease Law protects farmworkers and their dependents from loss of income due to disablement or death from occupational disease, to the same extent as workers in covered non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm operator contracts with a farm labor contractor for the performance of agricultural services in the normal course of the farmer's business, the farm operator is responsible for providing workers' compensation coverage for the workers performing the services, unless the labor contractor provides such coverage before services under the contract commence.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288). Claims for occupational disease compensation are processed in the same manner as provided for accidental injuries under the Workers' Compensation Law. As a rule, occupational disease claims are void unless filed with the insurer or self-insured employer within one year after the worker first discovers the disease, or within one year after the date of disablement or the diagnosis of occupational disease, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Hearings Division, Workers' Compensation Board, Salem, Oregon 97302 (503-378-3308). Disputes regarding entitlement to compensation or the amount of compensation due may be appealed to the Worker's Compensation Board.

Pennsylvania

STATUTORY CITATION: 77 Pa. Stat. §§ 1 - 2708

GENERAL SUMMARY: The Workers' Compensation Act makes most employers in the state — regardless of payroll volume or number of employees — liable for the payment of compensation in the event an employee is accidentally injured, or dies as a result of an accidental injury, in the course of employment. Workers injured on the job are entitled to reasonable medical and surgical services, medicines and supplies, at the employer's expense, and if injury leads to the disablement or death of the worker, the employer is responsible for payment of cash benefits to the worker or the worker's dependents to compensate for lost wages.

To meet liability under the Act, an employer must purchase workers' compensation insurance, either through the State Workers' Insurance Fund or through a commercial insurance carrier, or, with proof of financial ability to pay compensation directly, may apply to the state for an annual insurance exemption. Employers who insure their liability for compensation generally are protected from further liability for work-related injury to their employees, and the workers are assured prompt medical attention and monetary compensation without need of litigation. On the other hand, an employer who fails to comply may be sued for damages by an injured employee and forfeits the right to claim as a defense that the injury was caused by the negligence of a co-worker or by the worker's own negligence, or that the worker had assumed the risk that led to the injury. Moreover, non-complying employers are subject to criminal fines and imprisonment.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment which (1) pays wages of \$1,200 or more to any one worker during the calendar year for agricultural labor, or (2) employs any one worker for 30 or more days of farm labor during the year, must provide workers' compensation coverage for all the establishment's employees.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — A farm operator or other agricultural establishment subject to the Workers' Compensation Act that uses the services of workers hired by a farm labor contractor to perform labor on the establishment's premises is liable for compensation if such a worker is injured in the course of the job, unless the contractor is liable for compensation and has already secured coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383). It is the Department's duty to enforce employer compliance with the obligation to secure workers' compensation insurance or obtain an exemption permit, and to assure prompt processing of injury cases and payment of compensation by employers and insurers. In general, notice of the occurrence of a worker's injury must be given to the employer within 120 days after the date of injury, or no compensation is allowed. The Department may respond to a petition by an employee or an employee's dependents requesting a hearing and determination in any case in which compensation has been denied or has not been paid in accordance with prescribed time standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

O PENNSYLVANIA OCCUPATIONAL DISEASE ACT

STATUTORY CITATION: 77 Pa. Stat. §§ 1201 - 1209

GENERAL SUMMARY: The Pennsylvania Occupational Disease Act requires most employers in the state to insure their workers against disablement or death caused by occupational disease resulting from employment. Unless exempted by the state administering agency as having sufficient financial ability to cover claims directly, subject employers must purchase occupational disease compensation insurance from the State Workers' Insurance Fund or from a commercial insurance carrier, to meet the cost of medical treatment and regular cash benefits to the worker or the worker's dependents for continuing disability or death. Employers who fail to comply with the obligation to insure are faced with criminal fines, imprisonment, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: The Occupational Disease Act does not apply to persons performing agricultural services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104.

Puerto Rico

COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 1 - 42

GENERAL SUMMARY: Under the Compensation System for Work-Related Accidents Act, every covered worker who suffers an accidental on-the-job injury or contracts an occupational disease is generally entitled to (1) medical treatment, medicines and necessary hospital services, and (2) weekly cash compensation for the duration of any period of temporary disability, or for a specified number of weeks in the event of permanent disability. If death results from such an injury or disease, the Act authorizes the payment of monthly benefits to the worker's surviving dependents for up to 10 years.

Every employer subject to the Act is compelled to pay premiums to the State Insurance Fund to cover the employer's liability for workers' compensation. Not only are there criminal penalties for failure to insure, but an employer who is not insured at the time of a compensable injury may be sued by the injured worker for damages, and the fact that the worker or a co-worker was guilty of negligence, or that the worker had assumed the risk that led to the injury, may not be used by the employer as a defense to the suit.

PROVISIONS APPLICABLE TO AGRICULTURE: The Compensation System for Work-Related Accidents Act applies to agricultural establishments and all other employers in Puerto Rico who employ one or more non-casual workers. Hence, like their counterparts in other industries, farmworkers who suffer injury, are disabled, or lose their lives in an accident caused by and in the course of their employment, or who are disabled or die from an occupational disease, have a right to receive medical care and monetary compensation furnished by their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). The Insurance Fund Corporation is responsible for enforcing the liability of employers to insure the payment of workers' compensation, and is authorized to suspend the activities of any business found to be operating without required insurance. It is the Corporation's duty, also, to refer injured workers to designated health care providers for examination and treatment, to attend to the physical rehabilitation of such workers, and to assure the payment of workers' compensation benefits to eligible claimants. A worker who is injured in any way in connection with the job should notify the employer immediately, so that the employer may report the accident to the State Insurance Fund in compliance with the statutory 5-day limitation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545). In response to an appeal, the Industrial Commission is authorized to review any decision by the State Insurance Fund Corporation which adversely affects a workers' compensation claimant.

INJURED MIGRANT WORKERS LAW

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 60 - 65

GENERAL SUMMARY: Chapter 2 of the workers' compensation statutes (1) authorizes the Puerto Rico Industrial Commission to intervene on behalf of workers injured in the United States, and (2) provides for the payment of medical and hospital benefits for certain job-injured migrant workers returning to Puerto Rico from employment abroad. These provisions apply implicitly to agricultural workers, to the same extent as workers in any other industry or occupation.

SPECIFIC TERMS AND CONDITIONS

ASSISTANCE WITH U.S. CLAIMS — When a Puerto Rico migrant worker is injured or killed in an occupational accident in any state or territory of the United States and the worker or the worker's surviving dependents are unable to get back to the location where the accident occurred to process a workers' compensation claim, the Industrial Commission of Puerto Rico is authorized to intervene on the claimant's behalf. Under this authority, the Commission may perform such functions as obtaining additional medical evidence at the request of the workers' compensation administering agency having jurisdiction over the case, or taking steps at the request of the injured worker or the worker's beneficiaries to expedite processing of the claim.

MEDICAL AND HOSPITAL BENEFITS — Migrant workers from Puerto Rico who are injured in a work-related accident or disabled by an occupational disease in the course of employment abroad under a contract of hire approved by Puerto Rico's labor secretary, and who require medical treatment and hospitalization on their return to Puerto Rico, are generally eligible for medical and hospital benefits provided under the Compensation System for Work-Related Accidents Act until their rehabilitation. The cost of services for injured workers returning to Puerto Rico is paid for out of budget appropriations to the Department of Labor and Human Resources, but the labor secretary is obligated to attempt to recover all such costs from the employer's insurer in accordance with mandatory provisions in the approved contract of hire.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545)*. The Industrial Commission has a duty to assist injured workers returning home to Puerto Rico in obtaining workers' compensation benefits to which they may entitled, as described above. The Commission is also responsible for handling appeals from workers denied services by the State Insurance Fund Corporation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180). The Department is authorized to request medical and hospital services through the State Insurance Fund on behalf of any worker who is injured abroad while employed under a Department-approved contract.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). The Insurance Fund Corporation is responsible for referring injured workers to designated health care providers for examination and treatment, for attending to the physical rehabilitation of such workers, and for assuring the payment of workers' compensation benefits to eligible claimants.

Rhode Island

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-29-1 - 28-38-25

GENERAL SUMMARY: Under the Workers' Compensation Act, an employee who receives a personal injury, or suffers disablement from an occupational disease, arising out of and in the course of employment is generally entitled to cash compensation from the employer. Moreover, if the injury or illness should result in death, the worker's surviving dependents are normally eligible for death benefits. The Act requires, also, that subject employers promptly provide for reasonable medical and surgical services, hospital care, medicines, and related benefits necessary to cure, rehabilitate or relieve their employees from the effects of job-related injuries or disease.

To meet their liability, every employer subject to the Act must (1) purchase a policy of workers' compensation insurance from a licensed carrier, (2) enroll in a group self-insurance fund, or (3) furnish the state enforcement agency with proof of financial ability to pay workers' compensation benefits directly. Failure by an employer to secure payment of compensation under one of these options is a criminal offense. Furthermore, a worker injured while in the employ of a non-complying employer may sue the employer for damages, and in any such suit the employer is barred from claiming as a defense that the injury resulted from the negligence of the worker or a co-worker, or that the worker had assumed the risks that led to the injury.

The Workers' Compensation Act generally applies to all individuals, partnerships and corporations with one or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers and other agricultural employers who employ 25 or more farmworkers for 13 or more consecutive weeks are generally required to provide workers' compensation coverage to their employees. Employers who meet this workforce threshold, however, have the option of purchasing health and disability insurance covering their farm employees, thereby exempting themselves from the requirements of workers' compensation, provided the health and disability insurance premium exceeds the premium for workers' compensation insurance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

SOUTH CAROLINA WORKERS' COMPENSATION LAW

STATUTORY CITATION: S.C. Code §§ 42-1-10 - 42-19-50

GENERAL SUMMARY: The South Carolina Workers' Compensation Law makes most employers in the state who have 4 or more employees liable for the payment of compensation for any employee whose personal injury or death results from a job-related accident or whose disablement is due to an occupational disease. Subject employers are required to insure their liability through a prescribed workers' compensation insurance policy, or by furnishing the state enforcement agency with evidence of their financial ability to pay compensation directly. In addition to cash compensation to the worker or the worker's surviving dependents, the employer is also obligated to cover the cost of medical, surgical and hospital services and related expenses stemming from an employee's job injuries or occupational disease.

In return for accepting workers' compensation coverage and insuring the payment of compensation, the employer is generally relieved of all further liability in connection with injury to his or her employees. On the other hand, an employer who declines coverage may be sued for damages by a worker injured on the job, or by the dependents of such a worker, and in any such action the employer may not claim as a defense in court that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risk of the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer elects voluntary coverage, the Workers' Compensation Law does not apply to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - South Carolina Workers' Compensation Commission, Columbia, South Carolina 29202. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Dakota

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 62-1-1 - 62-9-15

GENERAL SUMMARY: Under the South Dakota workers' compensation law, most employers in the state are responsible for (1) providing necessary first-aid, medical, surgical and hospital services, and related care during the disability or treatment of an employee injured on the job or disabled by an occupational disease, and (2) paying cash benefits to any such worker (or to the surviving dependents of such a worker if death results from the injury or disease) to compensate for loss of wages. To meet this liability, subject employers must either purchase workers' compensation insurance, operate a state-approved self-insurance plan, or provide the state administering agency with proof of solvency and financial ability to pay compensation directly.

Employers who comply with the requirement to secure payment of compensation are generally protected against further liability for an employee's personal injury or death arising out of and in the course of employment. In the event, however, that a worker is injured or killed while working for an uninsured or insolvent employer, the worker or the worker's dependents may elect to sue the employer for recovery of damages or to proceed against the employer in circuit court under the workers' compensation law. In the latter case, the claimant is entitled to twice the amount of compensation that would otherwise be payable if the employer were insured.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employees of businesses which operate threshing machines, grain combines, corn huskers and similar mechanical equipment for hire, South Dakota's workers' compensation law **does not apply** to farm or agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Program, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

O WORKERS' COMPENSATION LAW

STATUTORY CITATION: Tenn. Code §§ 50-6-101 - 50-6-921

GENERAL SUMMARY: The Workers' Compensation Law requires every employer subject to its terms to pay compensation for the injury or death of an employee, due to an accident or an occupational disease arising out of and in the course of employment, generally without regard to fault. In addition, subject employers are responsible for furnishing free of charge to the injured or diseased worker such medical and surgical treatment, medicines, supplies and other care as are reasonably necessary for treatment of or recovery from such injury or disease. To meet their obligations under the law, employers must either purchase a workers' compensation insurance policy from a commercial carrier, or provide the state with proof of financial ability to pay claims directly.

Employers who insure their liability for compensation or qualify as self-insurers are generally protected against all further liability for injury or death of a worker on the job, and the worker or the worker's dependents are accorded compensation and medical care without the need for litigation. On the other hand, an employer who fails to secure payment of compensation faces significant fines and other penalties assessed by the enforcement agency.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law does not apply to agricultural laborers or their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Workers' Compensation, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

STATUTORY CITATION: Tex. Labor Code §§ 401.001 - 419.007, §§ 451.001 - 451.003, and §§ 501.001 - 506.002

GENERAL SUMMARY: In most lawsuits involving damages for an employee's accidental injury on the job, the Texas Workers' Compensation Act abolishes the employer's right to claim as a defense that the accident was due to the employee's own negligence or the negligence of a co-worker, or that the employee had assumed the risk of injury inherent in the employment. To effectuate the Act's primary purpose of providing medical care and income support for job-injured employees without regard to fault and without the need for litigation, offsetting at the same time the substantial loss of legal defenses by employers, the Act strips the employee of the right to sue the employer for damages as long as the employer maintains workers' compensation insurance coverage through a state-licensed insurance company or has a valid certificate of authority to self-insure.

Employees covered by workers' compensation insurance at the time of a work-related injury or onset of an occupational disease are generally entitled to (1) all health care reasonably required by the nature of the injury, as and when needed, and (2) income benefits to compensate for lost wages and certain permanent impairment. In the event of death due to a compensable injury or occupational disease, weekly compensation is payable to the employee's surviving beneficiaries.

Unless they formally opt out, most Texas employers who employ one or more workers are subject to the Act, and their employees are covered unless they request exemption.

PROVISIONS APPLICABLE TO AGRICULTURE

MIGRANT WORKERS — The Workers' Compensation Act applies without exception to workers who are employed in seasonal or temporary agricultural labor and who are required to be absent overnight from their permanent place of residence.

SEASONAL WORKERS — Employees performing farm or ranch work which does not require overnight absence from their permanent residence are covered by the Workers' Compensation Act under any one of the following circumstances:

- (1) While employed in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets, or vegetable seeds.
- (2) While employed by an employer whose gross annual payroll for the preceding year equals or exceeds the state-prescribed adjusted gross annual payroll requirement for coverage of seasonal workers (\$54,783 in 2017).
- (3) While employed by a farm operator or labor contractor who employs migrant workers performing the same work, at the same time, and at the same location.

OTHER AGRICULTURAL WORKERS — For year-round farm employees and other non-seasonal, non-temporary agricultural employees, coverage extends to only those employees employed by an employer for whom either of the following applies:

- Had a gross annual payroll in the preceding year at or above the state-prescribed adjusted gross annual payroll requirement for coverage of seasonal workers (\$54,783 in 2017).
- (2) Employs 3 or more farm or ranch laborers other than migrant or seasonal workers.

As used above, the term "gross annual payroll" includes amounts paid by the farm operator for the services of migrant and seasonal farmworkers and farm labor contractors, but it does not include wages paid to the farmer's family members or business partners.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge or in any other way discriminate against an employee because the employee has filed a workers' compensation claim or testified in a related proceeding. An employee who is subjected to retaliation may be entitled to damages and reinstatement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Texas Department of Insurance, Austin, Texas 78744 (512-804-4000). The Workers' Compensation Division is responsible for assuring compliance with the Workers' Compensation Act by employers, insurance carriers, and claimants. Whenever an employer secures workers' compensation insurance coverage, the insurance carrier must notify the Division, and employers are required to submit to the Division a report of any accident resulting in injury to an employee which results in absence from work for more than one day. The agency is authorized to resolve all disputes between claimants, employers and insurance carriers regarding eligibility for compensation, duration of benefits, and related issues. As a rule, a job injury must be reported to the employer within 30 days after its occurrence to preserve the validity of a compensation claim based on the injury, and compensation is generally not payable unless a claim has been filed with the Division within one year after the injury or the onset of disability due to an occupational disease.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

STATUTORY CITATION: Utah Code §§ 34A-2-101 - 34A-10-1005

GENERAL SUMMARY: Every employee covered by the state workers' compensation law who is injured in an employment-related accident is entitled to cash compensation for any loss in connection with the injury, as well as medical, nursing and hospital services, and medicines; if the accident results in death, cash benefits and funeral expenses are generally payable to the worker's surviving dependents. The responsibility for payment of compensation and related costs for on-the-job injury or death is on the employer, who must meet that liability by (1) paying premiums to the state worker's compensation fund, (2) purchasing and keeping current a workers' compensation insurance policy through a private insurance carrier, or (3) furnishing the state administering agency with proof of financial ability to pay compensation directly.

Employers who comply with the duty to secure compensation are generally protected against any further liability with respect to a worker's injury on the job, and the worker or worker's dependents are assured of benefits without the need for litigation. On the other hand, an employer who fails to provide for the payment of benefits may be sued for damages by an injured worker or an injured worker's dependents, and such an employer may not claim as a defense that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury. Furthermore, the state agency has authority to file suit to enjoin any uninsured employer from further business operations in Utah.

With some exceptions, the Act applies to employers who regularly employ one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: Under considerably more restrictive conditions than those in most other industries, the Workers' Compensation Act applies only to those farmworkers covered by the state unemployment insurance program, described in the previous entry. Consequently, only those farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to have workers' compensation coverage. Farmworkers who are injured while performing labor for such an establishment are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114* (801-530-6800; toll-free 800-530-5090). It is the responsibility of the Division to assure that employers subject to the workers' compensation law meet their liability to provide coverage, and to see that each eligible claimant receives full and timely benefits, either from the state fund, the employer's private insurance carrier, or the self-insured employer. In general, an employee who suffers injury on the job should notify the employer promptly; compensation is barred altogether unless notice of injury is given to the employer within 180 days of the accident that led to the injury.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ UTAH OCCUPATIONAL DISEASE ACT

STATUTORY CITATION: Utah Code §§ 34A-3-101 - 34A-3-113

GENERAL SUMMARY: The Utah Occupational Disease Act requires most employers in the state to pay compensation and associated medical costs in the event of an employee's disability or death from an occupational disease. An employer may meet the liability for these benefits by obtaining occupational disease compensation insurance through the state or a private insurance carrier, or by qualifying as a self-insurer by furnishing the state with evidence of financial ability to pay benefits directly.

Covered workers who are totally disabled by an occupational disease contracted in the course of employment are generally entitled to cash compensation, medical and hospital care, and medicines. If death results from the disabling condition, benefits are payable to the worker's surviving dependents, as are prescribed burial expenses.

In most industries in Utah, the Occupational Disease Act applies to employers who regularly employ one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Occupational Disease Act applies to only those farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year. Farmworkers who contract a disease or illness that arises out of — and is medically caused or aggravated by — employment for such an employer, are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

STATUTORY CITATION: Vt. Stat. Title 21, §§ 601 - 711

GENERAL SUMMARY: Under the state workers' compensation law, if a worker receives a personal injury by accident arising out of and in the course of employment, the employer or the employer's insurance carrier must pay compensation for the injury. In addition to cash payments to compensate for the worker's lost earning capacity, the employer or insurer is also responsible for furnishing the job-related accident victim with medical, surgical, hospital and nursing services and supplies necessary for treatment of or recovery from the injury.

To meet their liability under the law, employers are required to either maintain a policy of workers' compensation or equivalent insurance, or provide the state with evidence of their financial ability to pay compensation directly. In the event a worker is injured in an accident while working for an employer who has failed to comply with this requirement, the worker may elect either to claim workers' compensation or to sue the employer for full damages; in any such lawsuit, the employer loses the right to claim that the injury was caused by the negligence of another employee, or that the employee assumed the risk inherent in the employment.

The law applies, with some exceptions, to any worker employed by any employer.

PROVISIONS APPLICABLE TO AGRICULTURE: Each farm operator or other agricultural establishment whose aggregate payroll in a calendar year is \$10,000 or more is subject to the workers' compensation law, and any worker engaged in agricultural services for such an employer is entitled to compensation and medical care in the event of injury on the job. If the injury contributes to the worker's death, benefits are payable to the worker's surviving dependents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — No person may discharge or discriminate against an employee because the employee has asserted a claim for workers' compensation benefits, and it is similarly unlawful for an employer to refuse to employ a job applicant on grounds that the applicant has filed a claim. Any such act of retaliation or discrimination should be reported to the state attorney general.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-2286). It is the duty of the Department to assure that employers subject to the workers' compensation law comply with the obligation to secure coverage for their employees, and to see that benefits are dispensed in accordance with prescribed standards. A worker who is injured on the job (or the dependents of a worker who dies from a job-related accident) must promptly notify the employer of the occurrence of the accident. In general, no claim for compensation is valid unless it is filed with the employer within 6 months after the injury or death of the worker. Any dispute regarding the eligibility of an individual for workers' compensation benefits, or the amount or duration of such benefits, may be referred to the Department for hearing and resolution

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Civil Rights Unit, Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3657, toll-free 888-745-9195). This agency enforces the anti-retaliation provision in the workers' compensation

Virginia

→ VIRGINIA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Va. Code §§ 65.2-100 - 65.2-1206

GENERAL SUMMARY: The Virginia Workers' Compensation Act makes most employers in the state liable for the payment of compensation in the event of personal injury or death of an employee in a job-related accident, or for the disablement or death of a worker from an occupational disease. In addition, employers must cover the cost of medical attention and vocational rehabilitation required as a result of the accident or disease.

Every employer subject to the Act must insure the liability to pay compensation by (1) purchasing a prescribed workers' compensation insurance policy and keeping it in effect, (2) obtaining membership in a licensed group self-insurance association, (3) providing the state with proof of financial ability to pay compensation directly, or (4) entering into an agreement with a professional employer organization. An employer who complies through one of these four options is generally protected against all further claims in connection with a compensable injury, illness or death, and the worker or worker's dependents have no further legal recourse. On the other hand, an employer's refusal or neglect to secure workers' compensation coverage is punishable by a fine of up to \$50,000 and exposes the employer to a damage suit for each occupational injury or disease that may occur; in any such suit the Act strips the employer of the right to claim as a defense that the injury resulted from the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury or disease.

With some exceptions, the requirements of the act apply to employers with 3 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that regularly employ more than 3 full-time employees are subject to the Workers' Compensation Act, and farmworkers performing services for such an employer are entitled to compensation for lost wages and medical treatment for injury on the job.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer is prohibited from firing an employee solely because the employee has filed or intends to file a workers' compensation claim, or because the employee has testified or is about to testify in any workers' comp-related proceeding. A worker who has suffered from such retaliation may bring civil action against the employer for damages, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Virginia Workers' Compensation Commission, Richmond, Virginia 23220 (toll-free 877-664-2566). The Commission is responsible for assuring that employers subject to the Act secure workers' compensation insurance or have alternative means of providing compensation for their employees, and for seeing that eligible claimants receive the benefits to which they are entitled. The right to benefits may be lost unless the employee files a claim with the Commission within 2 years from the date of the accident (or, in the case of an occupational disease, within 2 years from the date the doctor tells the employee the disease is work-related, or 5 years from the date the employee was last exposed to the work condition causing the disease, whichever is sooner). A worker who has suffered an injury in connection with employment (or the dependent of any worker killed or injured on the job) who disputes or questions a decision by an employer or insurance carrier concerning workers' compensation coverage, eligibility or benefits, may apply to the Commission for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

INDUSTRIAL INSURANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 51.04.010 - 51.98.070

GENERAL SUMMARY: Each worker who is injured in the course of employment or who contracts an occupational disease is entitled to receive medical treatment, wage replacement benefits if unable to work, and other compensation. If the injury or disease leads to the worker's death, compensation is payable to the worker's surviving dependents. A worker who is injured on the job has the right to necessary medical, surgical and hospital services until reaching maximum medical improvement. These benefits are payable without regard to fault and in lieu of the worker's right to legal action against the employer in connection with the injury or disease.

To finance the state industrial insurance program, most employers are required to (1) pay quarterly premiums to the state workers' compensation fund, or (2) qualify as a self-insurer. One-half the cost of the medical portion of the premium can be deducted and withheld from the employees' wages for those covered by the state fund. Cost-of-living adjustments for wage replacement and pension benefits are paid from the state supplemental pension fund, and these premiums are paid equally by employers and workers.

PROVISIONS APPLICABLE TO AGRICULTURE: The industrial insurance law applies to all agricultural employers with one or more employees, and protects all agricultural workers, to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Insurance Services Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5800). The Department is responsible for determining the liability of employers for industrial insurance premiums, collecting premiums from subject employers, determining the eligibility of injured workers or their dependents for compensation benefits, paying compensation to eligible workers and beneficiaries, and overseeing the medical, surgical and hospital treatment of covered employees. It is the worker's duty to promptly report to the employer any job-related accident which affects the worker, and the employer must in turn notify the Department whenever an accident results in an employee's injury, hospitalization, disability or death. Medical providers are required to assist the worker with filing a workers' compensation claim.

Any worker injured on the job, or the dependent of any such worker, may file a claim or application for compensation with the Department (or with the employer, if the employer is self-insured). In general, no claim is enforceable unless filed within one year after occurrence of the injury or death on which the claim is based.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

→ WORKERS' COMPENSATION LAW

STATUTORY CITATION: W. Va. Code §§ 23-1-1 - 23-6-3

RELATED REGULATIONS: W. Va. Code R. § 85-8

GENERAL SUMMARY: With some exceptions, every employer in West Virginia is required to obtain workers' compensation coverage for the protection of its employees. A West Virginia workers' compensation insurance policy must provide for the payment of medical costs, disability benefits, and vocational rehabilitation for workers who have sustained a personal injury or contracted an occupational disease in the course of any employment covered by the workers' compensation law. Policies must also provide benefits to the surviving dependents of any such worker who dies as a result of a compensable injury or disease.

Any subject employer who purchases and maintains workers' compensation insurance coverage, or who qualifies as a self-insurer, is relieved of all liability for damages for the injury or death of an employee. On the other hand, an employer who fails to obtain insurance or is in default on payment of premiums may be sued by an employee or an employee's dependents for damages in the event of the worker's injury or death, and in any such suit the employer is barred from using as a defense the fact that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Every farm operator or other agricultural establishment with more than 5 full-time workers performing agricultural services is required to obtain and maintain workers' compensation insurance. In turn, any full-time, part-time or seasonal farmworker who is employed by such an establishment is generally entitled to disability compensation and medical benefits for injury sustained on the job.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline, refuse to hire, or discriminate in any other manner against an individual because the individual has filed a workers' compensation claim or received workers' compensation benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Offices of the Insurance Commissioner, West Virginia Department of Revenue, Charleston, West Virginia 25302 (304-558-3029). It is the Commissioner's responsibility to enforce the payment of premiums by employers subject to the workers' compensation law, and assure the payment of compensation and medical benefits for job-related injuries. An employee who is injured at work should promptly report the accident to the employer, who in turn must notify his or her workers' compensation insurance carrier. A worker who is injured on the job and does not receive the medical attention or disability benefits required under this law may file a complaint with the Commissioner's office, by calling 888-879-9842. The complaint form may be obtained online, at www.wvinsurance.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

STATUTORY CITATION: Wis. Stat. §§ 102.01 - 102.89

GENERAL SUMMARY: With some exceptions, the Worker's Compensation Act requires employers who regularly have 3 or more employees, or who pay wages amounting to \$500 or more in any calendar quarter, to carry workers' compensation insurance in case of an employee's injury or death in the course of employment. Employers with 3 or more employees must obtain insurance immediately upon employing a third person, while an employer who pays \$500 or more in a calendar quarter must obtain insurance by the 10th day of the first month of the next calendar quarter.

Among the benefits to which covered employees are entitled in the event of a work-related injury are (1) coverage of all reasonable and necessary medical costs, (2) cash payments for temporary loss of wages while the employee is recovering from the injury, (3) cash payments for permanent disability if the employee does not fully recover from the injury, (4) vocational rehabilitation, and (5) death benefits and payment of burial expenses if death occurs as a result of the injury.

An employer who does not comply with the responsibility to insure the payment of compensation is subject to a civil penalty and possible closure of the business, and becomes personally liable for uninsured benefit claims for which the injured employee is eligible.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other farming establishment that employs 6 or more employees at one or more locations, working on the same day for 20 or more days during a calendar year, is required to secure workers' compensation insurance within 10 days after the 20th such day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Worker's Compensation Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-1340). It is the Department's duty to see that all employers subject to the Worker's Compensation Act secure coverage for the protection of their employees, and that claims are processed and benefits are paid in conformity with statutory standards.

An injured employee should give notice to the employer within 30 days of any injury, or, in the case of an occupational disease, within 30 days of the time the employee becomes aware of the disability and its relation to the employment. If notice is not given within 30 days, the worker may give notice anytime within 2 years of the date the injury occurred, the date of the onset of the disease, or the date the worker first realized that such injury or disease was caused by his or her work.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING WORKER'S COMPENSATION ACT

STATUTORY CITATION: Wyo. Stat. §§ 27-14-101 - 27-14-806

GENERAL SUMMARY: The Wyoming Worker's Compensation Act requires employers who employ individuals in certain specified extra-hazardous occupations to pay workers' compensation premiums to the state. The funds amassed as premiums are used to pay medical and hospital expenses incurred by covered employees who are injured in the course of their employment, and to pay disability or death benefits to such workers or their surviving dependents to offset lost earnings.

Employers who apply to the state for coverage and make required payment of premiums are generally relieved of all liability for the injury or death of an employee on the job, while those who fail to comply are subject to money penalties payable to the state, as well as civil action by injured employees for damages.

 $\label{eq:provisions} \textit{PROVISIONS APPLICABLE TO AGRICULTURE:} \ \text{The Worker's Compensation Act} \ \textit{does not apply} \ \text{to agricultural workers, other than those engaged in logging.}$

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Workers' Compensation Division, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002.

U.S.

■ SOCIAL SECURITY ACT; FEDERAL INSURANCE CONTRIBUTIONS ACT

STATUTORY CITATION: 42 USC §§ 401 - 434; 26 USC §§ 3101 - 3128

GENERAL SUMMARY: Among many other statutory purposes, the Social Security Act authorizes monthly cash payments to insured workers for long-term disability and retirement, as well as cash benefits for their survivors. Social Security benefits are financed through a tax on wages, authorized by the Federal Insurance Contributions Act and paid by employers, employees and the self-employed.

With a multitude of narrow exceptions, employers and employees are required to pay FICA taxes on all cash and non-cash wages paid to an employee, up to a current wage limit of \$127,200 per year (2017).

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to pay FICA taxes on behalf of their agricultural employees. On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must pay FICA taxes on that worker's wages. The employer's share of the tax is currently 7.65 percent of each covered worker's wages, up to a taxable wage limit of \$127,200 per worker per year.

Exception — The \$2,500 wage threshold referred to above does not include wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

WORKER CONTRIBUTIONS — Workers who perform agricultural services for an employer whose annual expenditures for agricultural labor amount to at least \$2,500, or who receive \$150 or more in agricultural wages from the employer, are required to pay FICA taxes equal to the employer's share, or 7.65 percent of their wages. The employer must deduct the worker's share of FICA taxes from the worker's earnings each time wages are paid, and must regularly deposit the FICA taxes in a federal depository bank or forward them to the Internal Revenue Service. By early the following year, the employer must report the amount of wages paid and FICA taxes withheld to the Social Security Administration, for proper credit to the worker's earnings record. Compensation paid to the worker in any form other than cash (such as housing or transportation, for example) is not considered wages for Social Security purposes.

Exception — The \$2,500 wage threshold referred to above does not include wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

BENEFITS — A worker's eligibility for Social Security benefits, as well as the amount of those benefits, depends on the number of quarters of coverage the worker has accumulated as an employee. Workers may accrue up to four quarters of coverage in a year, provided their wages from FICA-covered employment equal or exceed the minimum required earnings in every quarterly period; in 2017, a worker must have at least \$1,300 in covered earnings to receive credit for a quarter of coverage. Farmworkers who have sufficient quarters of coverage and meet other eligibility requirements may qualify for full or reduced Social Security benefits, as determined through regular application processing procedures.

In general, disability benefits are payable only in the case of a disability that is expected to last at least 12 months or can be expected to result in death, and only when the worker meets the required period of covered employment. Retirement benefits are generally payable beginning at age 62, provided the worker has at least 40 quarters of coverage, or one quarter of coverage for each calendar year after age 21 and before age 62.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where work is performed through the auspices or under the supervision of a crew leader or labor contractor, the question of who, if anyone, is responsible for collecting and matching FICA contributions on the worker's wages depends on the relationship between the crew leader or contractor and the farm operator. Unless the crew leader has entered into a written agreement with the farmer, under which the crew leader is designated as the farmer's employee, as long as the workers receive their pay from the crew leader, the workers are deemed to be employees of the crew leader. In such cases, the crew leader is responsible for withholding and paying the FICA contributions, if applicable.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710). Through its district offices, IRS is responsible for enforcing employer compliance with the Federal Insurance Contributions Act, which includes both the determination of the employer's liability for payment of FICA taxes and collection of the taxes themselves. In response to a complaint or on the agency's own initiative, personnel from the IRS district office may inspect and copy an employer's payroll records, question employers and employees, and take related action to determine the employer's tax liability. Similarly, the district office may investigate apparent or alleged failure of an employer to deposit or forward FICA taxes withheld from a worker's earnings, and may enforce civil penalties and bring criminal charges against an employer for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Social Security Administration, U.S. Department of Health and Human Services, Baltimore, Maryland 21235 (410-965-0100). The Social Security Administration is responsible for properly crediting to the worker's earnings record the wages reported by the employer on Form W-2, a copy of which must be filed with the agency, and a duplicate forwarded to the worker, by January 31 following the end of the calendar year being reported. This agency also has charge of processing applications and determining eligibility for Social Security benefits. Accordingly, local Social Security offices can provide assistance to workers who wish to apply for benefits or have a question concerning their earnings record or any other aspect of Social Security. Offices can be located by phone, at 800-772-1213 (toll-free), or online at https://secure.ssa.gov/ICON/main.jsp#officeResults.

California

CALIFORNIA DISABILITY COMPENSATION LAW

STATUTORY CITATION: Cal. Unemp. Ins. Code §§ 2601–3306

GENERAL SUMMARY: The stated purpose of the California Disability Compensation Law is to compensate, in part, for the wage loss sustained by individuals unemployed because of their own sickness or injury, the sickness or injury of a family member, or the birth, adoption or foster care placement of a new child. The law provides for the payment of weekly cash benefits financed by the collection of a payroll tax on the earnings of each covered employee.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers are covered by the state disability insurance program to the same extent as most non-agricultural workers.

WORKER CONTRIBUTIONS — While employed by any employer who pays more than \$100 in wages during any calendar quarter in the current or preceding calendar year, farmworkers are subject to disability unemployment insurance taxes, which must be withheld from their earnings by the employer and forwarded to the state. The tax rate and the dollar amount of each worker's wages against which the rate is applied are determined annually by the administering agency; the rate for calendar year 2017 is 0.9 percent, and the wage limit is \$110,902.

ELIGIBILITY FOR BENEFITS — In general, a worker who is unemployed due to physical or mental illness or injury is eligible for weekly benefits if the worker (1) has been unemployed and disabled for a waiting period of 7 consecutive days, (2) has submitted to any required examination to determine disability, (3) has, not later than 49 days after the first compensable day of unemployment and disability, filed a first claim and accompanying physician's certification, and (4) has earned at least \$300 in wages during the appropriate base period.

AMOUNT OF BENEFITS — The amount of a worker's weekly benefits depends on the amount of wages received in the one quarter of the four-quarter base period in which earnings were highest. Benefits may range from \$50 to \$1,173 per week, but the worker is not entitled to disability benefits for any day of unemployment and disability for which the worker has received or is entitled to receive unemployment compensation, workers' compensation or similar cash benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Development Department, Sacramento, California 95814 (800-480-3287). This agency is responsible for collection of disability insurance contributions withheld from workers' pay, for determining eligibility for disability benefits, and for administering benefit payments. Applications for benefits may be filed online using SDI Online (http://www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 800-480-3287 in English, or 866-658-8846 in Spanish).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

HAWAII TEMPORARY DISABILITY INSURANCE LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 392-1 - 392-101

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 12-11-1 – 12-11-86

GENERAL SUMMARY: The Hawaii Temporary Disability Insurance Law requires most employers in the state to secure temporary disability benefits for their employees in the event of disability resulting from non-occupational illness or injury. Such coverage, the cost of which may be shared equally by the employer and the employee, may be provided through (1) a state-approved standard disability insurance policy, (2) a state-approved self-insured plan backed by a bond, security deposit, or proof of the employer's financial ability to pay disability benefits directly, or (3) a state-approved comparable disability insurance plan or other agreement with an insurer.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employees in other non-excluded occupations and industries, agricultural workers in Hawaii are entitled to, and may be required to contribute to the cost of providing, temporary disability insurance coverage in connection with their employment.

EMPLOYER AND WORKER CONTRIBUTIONS — To finance the cost of providing temporary disability insurance benefits to the workforce, an employer may deduct and withhold from the workers' wages up to one-half the cost of coverage, provided the cost to the worker does not exceed an annually updated cap set by the state (\$5.12 per week in 2017); the employer must cover the balance of the cost over the amount of the employees' contributions. In general, workers who, during the 52 weeks immediately preceding the payroll period, earned less than \$400 and worked less than 14 weeks for 20 or more hours each are not subject to withholding.

ELIGIBILITY FOR BENEFITS — In general, an individual is eligible to receive temporary disability benefits if the individual (1) is unable to perform the normal duties of the job due to sickness, pregnancy, termination of pregnancy, donation of a bodily organ, or an accident other than a work-related injury, (2) is under the care of a licensed medical or other health care practitioner who has certified the claimant's disability, and (3) has been in covered employment in Hawaii for at least 14 weeks, during each of which the individual has received remuneration for 20 or more hours, and has earned at least \$400 during the 52 weeks immediately preceding the first day of disability.

AMOUNT OF BENEFITS — The weekly amount of disability benefits is generally equal to 58 percent of the disabled employee's average weekly wage (or 100 percent of the worker's average weekly wage, up to a limit of \$14, if such wage is less than \$26). For the purpose of computing the weekly benefit amount, the average weekly wage is based on the wages the employee would receive from the employer except for the employee's disability. After a waiting period of 7 days, benefits are payable for up to 26 weeks for any period of disability or during any benefit year.

CLAIMS — Any employee who becomes disabled by a condition not connected with or resulting from employment and who wishes to apply for temporary disability benefits must submit a claim to the employer, on a state-prescribed form, within 90 days after commencement of the disability; the claim must include a physician's signed certification of disability. The first payment of benefits must occur within 10 days (exclusive of Saturdays, Sundays and holidays) after the filing of required proof of the claim. If the employer fails without good cause to initiate benefit payments within the 10-day timeframe, the employer or insurer must pay normal benefits plus an additional 10 percent of the benefits due and payable to the employee.

SPECIAL NOTES OR ADVISORIES

SPECIAL CLAIMS PROCEDURES — For employees who become disabled while unemployed and as a consequence of their disability become ineligible for unemployment insurance benefits, as well as for eligible disabled employees of employers in bankruptcy, the Department administers a special fund for disability benefits, financed largely through periodic assessments against disability insurers and employers. Disability benefit claims by workers under these special circumstances may be filed with the Department through any local office of the Disability Compensation Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9188). The Department has supervisory responsibility over collection of disability insurance contributions from employees and provision of benefits by employers. Any employee who is denied disability benefits by an employer or an employer's insurer may appeal the denial to the Department, which must hold a hearing and issue a determination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

■ TEMPORARY DISABILITY BENEFITS LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 43:21-25 - 43:21-56

GENERAL SUMMARY: The Temporary Disability Benefits Law establishes a uniform system for the payment of cash benefits to disabled employees, to replace earnings lost by reason of an accident or injury which is not compensable under the state workers' compensation program. Benefits may be provided through (1) the state disability benefits fund, which is administered by the state and financed by contributions assessed against the employer and the worker, or (2) a state-approved private plan established by the employer, who, with the consent of a majority of the workers, may withhold a portion of the plan's cost from the workers' wages. In general, the law applies to employers and employees who are covered by the state unemployment compensation law (see entry, New Jersey — Insurance & Compensation — Unemployment Insurance).

PROVISIONS APPLICABLE TO AGRICULTURE

STATE DISABILITY BENEFIT PLAN -

Employer Contributions — A farm employer who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for any part of a day in 20 or more different calendar weeks in the current or preceding year employed 10 or more agricultural workers, is required to contribute to the state disability benefits fund 0.5 percent of the wages paid to his or her workers, up to a per-worker wage limit normally equal to 28 times the statewide average weekly wage for employment covered by the unemployment compensation law.

Worker Contributions — Farmworkers who are employed by a subject employer, as described above, must generally contribute to the state disability benefits fund a sum equal to 0.28 percent of the worker's earnings, up to the above-mentioned wage limit. The employer is required to withhold contributions from the worker's pay and forward such amounts to the state agency, along with the employer's share.

Eligibility for Benefits — In general, a worker is entitled to temporary disability benefits only if the state agency finds that the worker (1) became totally disabled during a period of employment with a subject employer, or less than 2 weeks after separation from such employment, (2) is not eligible for workers' compensation, (3) is not covered by a private disability benefit plan, as described below, (4) is under the care of a licensed physician or comparable health care provider who can certify the claimant's disability, and (5) has, during the 52 weeks immediately preceding the onset of disability, earned at least 20 times the state hourly minimum wage in at least 20 different calendar weeks, or earned not less than 1,000 times the state hourly minimum wage.

Amount of Benefits — The weekly benefit rate payable to an eligible individual is normally equal to 2/3 of the individual's average weekly wage over the 52-week period immediately before the disability, subject to a maximum of 53 percent of the statewide average weekly wage for covered employment. The amount of benefits for each day of disability for which benefits are payable is computed at 1/7 of the corresponding weekly benefit rate.

PRIVATE PLANS -

Employer Options — As an alternative to participation in the state disability program, any covered employer, as defined in brief above, may establish a private plan for the payment of such benefits. A private plan may be provided through a commercial insurance carrier, by agreement between the employer and a union or other employee association or representative, or under an employer self-insurance arrangement. All private benefit plans must be submitted to and approved by the state agency.

Worker Contributions — An employer may cover part of the cost of providing benefits privately by requiring workers to pay contributions to the plan, but a majority of the employer's workforce must agree to such an arrangement before the plan is approved by the state agency. Furthermore, a private plan may not compel a worker to pay a greater amount toward the cost of benefits than the level of contributions prescribed for workers covered under the state program.

Eligibility for Benefits — The eligibility criteria for benefits under a private plan must be no more restrictive than those applicable to benefits from the state disability benefits fund.

Amount of Benefits — Benefits through a private plan must equal or exceed those payable under the state program.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460). The Department has responsibility for enforcing the Temporary Disability Benefits Law and for administering the associated state disability benefits program. A worker who is disabled by an injury or illness not connected with employment, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at lwd.dol.state.nj.us/labor/tdi/tdiindex.html#TDI2.

Any dispute that arises over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

O DISABILITY BENEFITS LAW

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 200 – 242

GENERAL SUMMARY: The Disability Benefits Law provides temporary cash benefits to eligible employees who are unable to work due to an off-the-job injury or illness, or who have lost eligibility for unemployment insurance benefits because of illness or injury. Employers are required to (1) obtain coverage for disability benefits through the state insurance fund or from a disability benefits insurance carrier authorized by the workers' compensation board to write such policies, or (2) apply to the board for authorization to self-insure.

To help defray the cost of disability benefits, employers are authorized to withhold from the earnings of each covered employee an amount equal to 0.5 percent of the employee's wages each pay period, up to a maximum contribution of 60 cents per week.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Disability Benefits Law does not apply to services performed by farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - New York State Workers' Compensation Board, Schenectady, New York 12305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

TEMPORARY DISABILITY BENEFIT ACT

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 201 – 212

GENERAL SUMMARY: The Temporary Disability Benefit Act authorizes the payment of weekly cash benefits to workers who suffer loss of wages as a result of disability due to illness or injury not connected with employment. Benefits are financed from the disability benefit fund, into which most Puerto Rico employers are required to pay a fixed percentage of the dollar-volume of their payroll, matched by an equal amount deducted and withheld from their workers' wages.

PROVISIONS APPLICABLE TO AGRICULTURE

CONTRIBUTIONS — In contrast with their counterparts in other industries, agricultural employers and workers are exempt from the payment of contributions to the disability benefit fund. The benefits received from the fund by agricultural workers disabled by non-work-related causes are reimbursed by the Commonwealth of Puerto Rico.

ELIGIBILITY FOR BENEFITS — Except for employees who usually and regularly operate motor vehicles as an inherent part of their work and hence are covered by the Chauffeurs Social Security Act, agricultural workers are generally eligible for disability benefits to the extent that they (1) have lost wages due to an injury or illness not connected with employment, and (2) have received wages of at least \$150 during the first four of the last five consecutive calendar quarters immediately preceding application for benefits.

AMOUNT OF BENEFITS -

Injury or Illness Benefits — Commencing on the 8th day of a non-work-related disability, an eligible worker with wages primarily or exclusively from agricultural employment is entitled to weekly benefits ranging from \$12 per week (for a worker with total wages of at least \$150 but not more than \$250 over the four-quarter base period), up to \$55 a week (for workers with an annual income of more than \$2,300).

Benefits for Dismemberment — In addition to the periodic disability payments mentioned above, a worker whose illness or injury results in loss of sight, a limb, or parts of a hand or foot, is generally eligible for a one-time dismemberment payment ranging from \$2,000 to \$4,000, depending on the specific loss.

Death Benefits — Upon the death of an eligible worker from a non-work-related illness or injury (other than an automobile accident), the worker's dependent beneficiaries are entitled to a payment of \$4,000, provided a claim is filed within 6 months following the worker's death.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900). The Department is responsible for determining the liability of employers and employees for the payment of contributions to the disability benefit fund, for collecting contributions, for determining eligibility of workers for benefits, and for authorizing the disbursement of benefits to eligible workers or their dependents. Disability claims may be filed at any local Employment Security office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CHAUFFEURS SOCIAL SECURITY LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 681 - 695

GENERAL SUMMARY: Chapter 45 of the Puerto Rico labor statutes establishes an employee benefit program for individuals who operate a motor vehicle in connection with their work. The plan, financed by a weekly assessment levied against both covered employees and their employers, provides for the payment of weekly cash benefits for sickness or disability, a voluntary retirement bonus at age 65 or over, and death benefits covering the worker and the worker's dependents.

PROVISIONS APPLICABLE TO AGRICULTURE: On the same terms as their counterparts in other industries, agricultural workers who are authorized to drive a motor vehicle under a driver's, chauffeur's, or heavy motor vehicle operator's license, and who usually and regularly drive a motor vehicle as an inherent part of their work, are covered by the social security program for chauffeurs, described in more detail below.

CONTRIBUTIONS — Every employer who hires one or more covered workers must promptly provide the program's administering agency with the name, motor vehicle operator's license number, Social Security number, and address of each such worker, and must withhold 50 cents each week from the worker's pay as dues to the Chauffeurs Social Security fund. Within 60 days after the end of each calendar quarter, the employer must remit to the fund all amounts withheld from covered workers, along with the employer's share of contributions (equal to 30 cents per week for each covered worker) and a list showing the name, license number, Social Security number, and weeks of work for each contributing employee.

BENEFITS —

Sickness Benefits — Workers who have paid dues for at least 25 weeks in the four calendar quarters preceding onset of a physical or mental condition (including pregnancy or childbirth) which prevents work and operation of a motor vehicle, are generally eligible for weekly sickness benefits for the duration of incapacity, up to a maximum period of 30 weeks. The amount of the benefits depends on the number of weeks of dues paid in the four-quarter contributing year, but benefits may range from \$16 a week for workers with 25 to 29 weeks of dues, up to \$30 for 45 weeks or more. A supplementary amount of from \$6 to \$30 will be added to the normal weekly benefits of any worker who has at least 50 weeks of dues credits over the preceding five-year period.

Permanent and Total Disability Benefits — A covered worker who, before the age of 65, becomes permanently unable to operate a motor vehicle is generally eligible for a one-time benefit payment for total and permanent disability if the claimant (1) has paid dues to the Chauffeurs Social Security fund for at least 40 weeks in the four-quarter period immediately preceding onset of disability, and (2) has had his or her motor vehicle operator's license canceled due to the disability. The amount of the payment varies in proportion to the number of weeks of dues paid in the five-year period preceding disability and in inverse proportion to the claimant's age. At the low end of the scale, eligible workers 64 years of age with less than 100 weeks of dues to their credit may receive \$360, while those under age 61 with 240 weeks of credits or more qualify for a payment of \$3,600.

Voluntary Retirement Bonus — Every insured worker who is at least 65 years old is entitled to receive a one-time bonus payment upon petition to the administering agency, provided the worker (1) has paid dues to the fund for at least 40 weeks during the four contributing quarters immediately before filing a petition or reaching age 65, and (2) has voluntarily requested cancellation of the chauffeur's or heavy motor vehicle operator's license. The amount of the bonus may range from \$180 to \$360, depending on the worker's dues credits.

Death Benefits — In the event of the death of a covered worker who has paid the fund dues corresponding to 10 weeks or more in the four-quarter contributing year immediately preceding the date of death, the worker's dependents are entitled to a lump-sum payment, the amount of which is determined by the number of weeks of dues credits paid both in the four-quarter contributing year and over the five calendar years preceding the first day of March before the date of death. Death benefits start at \$800 for workers with 10 weeks of dues in the four-quarter contributing year and less than 100 weeks in the five-year base period, and may go as high as \$6,000 for those with contributing-year credits of 45 weeks or more and base-period credits of 240 weeks or more. The fund will also pay to each worker who has at least 40 weeks of dues credits the sum of \$800 for the death of the worker's spouse, \$500 for the death of a child 6 to 15 years of age (inclusive), and \$300 for the death of a child under the age of 6. A claim for death benefits must be filed within one year after the date of death.

REINSTATEMENT TO EMPLOYMENT — In the case of a worker's illness or non-permanent disability for which benefits are payable under these provisions, the employer is generally obligated to reinstate the worker within 30 days after he or she is discharged from treatment, provided that (1) the job still exists when the worker requests reinstatement, (2) the worker is mentally and physically able to perform the job, and (3) the request is made no later than one year after the onset of the disability.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900). The Department is responsible for determining the liability of employers and employees for the payment of Chauffeurs Social Security contributions, for collecting the contributions, for determining workers' eligibility for benefits, and for making benefit payments. Application for benefits may be made at any local Chauffeurs Social Security office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Puerto Rico Department of Treasury, San Juan, Puerto Rico 00901 (787-721-2020). This agency is the trustee of the Chauffeurs Social Security fund and is responsible for its auditing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Puerto Rico Department of Transportation and Public Works, San Juan, Puerto Rico 00919 (787-294-0500). This agency is responsible for issuing motor vehicle operators' licenses in Puerto Rico, and hence for providing certain certifications to the Department of Labor and Human Resources regarding eligibility of workers for benefits under this law.

PRIVATE CIVIL ACTION — If an employer fails to comply when a worker requests reinstatement to the job after a period of disability ends, the worker may take action in civil court to recover the wages he or she would have received if reinstated, as well as monetary damages.

Rhode Island

RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-39-1 - 28-41-42

GENERAL SUMMARY: The Rhode Island Temporary Disability Insurance Act creates a state-administered fund for the payment of weekly cash benefits to eligible members of the labor force whose physical or mental condition renders them unable to work. Temporary disability insurance benefits are financed by contributions withheld from employees' wages and forwarded to the fund by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYEE CONTRIBUTIONS — To the same extent and on the same terms as non-agricultural employees, every farmworker employed by a farm operator or other agricultural establishment with one or more employees must contribute an annually determined portion of the worker's earnings (currently 1.2 percent) to the temporary disability insurance fund, up to a wage limit determined each year by the state administering agency (currently \$68,100). The employer is required to withhold contributions from the worker's earnings at the time of payment, and to transmit withheld amounts to the fund at regular intervals.

ELIGIBILITY FOR BENEFITS — Workers who are unemployed and unable to perform their regular or customary work due to a physical or mental condition (including pregnancy) are generally eligible for temporary disability benefits only if all of the following conditions are met:

- (1) During the first four of the last five completed calendar quarters preceding the initial claim, they earned insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840).
- In at least one of the four quarters, they earned at least 200 times the minimum wage (at least \$1,920).
- (3) Their total earnings over the entire four-quarter period amount to at least 1¹/2 times their earnings in the one quarter when earnings were highest.
- (4) The wages earned during the four-quarter base period must have been paid by one or more employers subject to the state unemployment insurance law.
- (5) The claimant must have been unemployed due to illness or other disability for at least 7 consecutive days.

Benefits are not payable for any week with respect to which the worker has received workers' compensation or unemployment insurance benefits.

AMOUNT OF BENEFITS — For any week of disability, an eligible claimant is normally entitled to a benefit rate equal to 4.62 percent of the worker's earnings in the one quarter of the four-quarter base period when earnings were highest, but not more than 85 percent of the statewide average weekly wage among workers covered by the state unemployment insurance program in the preceding calendar year.

DEPENDENTS' ALLOWANCE — A worker's temporary disability payment will generally be supplemented each week by \$10 or 7 percent of the benefit rate, whichever is greater, for each of the worker's dependent children under 18 years of age, but for not more than 5 such dependents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420). The Department administers all aspects of the temporary disability insurance program, from collection of contributions, to payment of benefits. There are substantial penalties for an employer's failure to forward contributions to the state for proper credit to the employee's account, and any worker who believes contributions are not being correctly withheld, remitted or reported should promptly contact the Department. Claims for disability benefits may be filed online, at https://uiclaims.ri.gov/tdionline/.

California

CALIFORNIA DISABILITY COMPENSATION LAW (PAID FAMILY LEAVE)

STATUTORY CITATION: Cal. Unemp. Ins. Code §§ 3300-3306

GENERAL SUMMARY: The stated purpose of the California Disability Compensation Law is to compensate, in part, for the wage loss sustained by individuals unemployed because of the sickness or injury of a family member, or the birth, adoption or foster care placement of a new child. For unemployment of this nature, the law provides for the payment of weekly cash benefits, financed by the collection of a payroll tax on the earnings of each covered employee.

Agricultural workers are covered by the Paid Family Leave provision to the same extent as most non-agricultural workers.

SPECIFIC TERMS AND CONDITIONS: Family temporary disability insurance provides up to 6 weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, parent-in-law, grandparent, grandchild, sibling, or domestic partner, or to bond with a new child within one year of the birth or placement of the child in connection with foster care or adoption. The program is financed by the California disability insurance taxes withheld from most workers' wages, as described in the previous entry.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Development Department, Sacramento, California 95814 (877-238-4373). This agency is responsible for collection of disability insurance contributions withheld from workers' pay, for determining eligibility for disability benefits, and for administering benefit payments. Applications for Paid Family Leave benefits may be filed online (http://www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 877-238-4373 in English, or 877-379-3819 in Spanish).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

→ TEMPORARY DISABILITY BENEFITS LAW (FAMILY LEAVE INSURANCE)

STATUTORY CITATION: N.J. Rev. Stat. §§ 43:21-39.1 - 43:21-39.4

GENERAL SUMMARY: In addition to replacing earnings lost on account of non-work-related disabilities, the Temporary Disability Benefits Law also authorizes cash benefits for up to 6 weeks to allow employees to provide care to a seriously ill family member, or to bond with a newborn or newly adopted child.

SPECIFIC TERMS AND CONDITIONS

EARNINGS ELIGIBILITY — In general, to qualify for Family Leave Insurance benefits, a worker must have earned wages from one or more covered employers amounting to 20 times the state hourly minimum wage in at least 20 different calendar weeks, or earned not less than 1,000 times the state hourly minimum wage from covered employment, during the 52 weeks immediately preceding the family leave period. A covered farm employer is one who (1) paid agricultural wages of \$20,000 or more during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more agricultural workers for any part of a day in 20 or more different calendar weeks this year or last.

OTHER CONDITIONS AND LIMITATIONS — Family Leave benefits are subject to the following conditions, among many others:

Care Leave — Leave to care for a family member with a serious health condition applies only to a worker's spouse, domestic or civil union partner, parent or child, and the health condition must be verified by a licensed health care provider. Care leave may be taken for 6 consecutive or intermittent weeks, or 42 intermittent days, during the 12-month period immediately preceding the claim.

Bonding Leave — Paid family leave for up to 6 weeks may also be taken to bond with (1) a newborn child during the 12 months after the child's birth, or (2) an adopted child during the 12 months after the child's placement. This type of leave generally must be for a period of more than 7 consecutive days. At the time the claim is made, the worker must provide certain documentation, such as the child's birth certificate or adoption records.

AMOUNT OF BENEFITS — The weekly benefit rate payable to an eligible individual is normally equal to 2/3 of the individual's average weekly wage over the 52-week period immediately before the leave period, subject to a maximum of 53 percent of the statewide average weekly wage for covered employment. The amount of benefits for each day of disability for which benefits are payable is computed at 1/7 of the corresponding weekly benefit rate.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460). The Department has responsibility for administering the Family Leave Insurance program. A worker who takes family leave, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at http://lwd.dol.state.nj.us/labor/fili/fliindex.html.

Any dispute that arises over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

New York

O PAID FAMILY LEAVE BENEFITS LAW

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 200 - 242

GENERAL SUMMARY: Effective in January 2018, the Paid Family Leave Benefits Law provides temporary cash benefits to eligible employees who take time off from work in order to bond with a new child, care for a seriously ill family member, or be with a family member called to active military service. Employers are required to (1) obtain coverage for family leave benefits through the state insurance fund or from an insurance carrier authorized by the workers' compensation board to write such policies, or (2) apply to the board for authorization to self-insure.

To help defray the cost of family leave benefits, employers are authorized to withhold from the earnings of each covered employee an amount determined annually by the state administering agency, beginning in June 2017.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Paid Family Leave Benefits Law does not apply to services performed by farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - New York State Workers' Compensation Board, Schenectady, New York 12305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT (TEMPORARY CAREGIVER INSURANCE)

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-41-34 - 28-41-40

GENERAL SUMMARY: In addition to providing for weekly cash payments to workers unemployed due to injury or illness, the Rhode Island Temporary Disability Insurance Act provides up to 4 weeks of caregiver benefits for workers who take time off work to care for a seriously ill family member, or to bond with a newborn or adopted child during the first 12 months of parenting. Temporary caregiver insurance benefits are financed by contributions withheld from employees' wages and forwarded to the fund by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYEE CONTRIBUTIONS — To the same extent and on the same terms as non-agricultural employees, every farmworker employed by a farm operator or other agricultural establishment with one or more employees must contribute an annually determined portion of his or her earnings (currently 1.2 percent) to the temporary disability/caregiver insurance fund, up to a wage limit determined each year by the state administering agency (currently \$68,100). The employer is required to withhold contributions from the worker's earnings at the time of payment, and to transmit withheld amounts to the fund at regular intervals.

ELIGIBILITY FOR BENEFITS — Workers who take time off work to care for a seriously ill family member, or to bond with a newborn or adopted child during the first 12 months of parenting, are generally eligible for temporary caregiver benefits only if all of the following conditions are met:

- During the first four of the last five completed calendar quarters preceding the initial claim, they earned insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840).
- (2) In at least one of the four quarters, they earned at least 200 times the minimum wage (at least \$1,920).
- (3) Their total earnings over the entire four-quarter period amount to at least 1¹/₂ times their earnings in the one quarter when earnings were highest.
- (4) The wages earned during the four-quarter base period must have been paid by one or more employers subject to the state unemployment insurance law.
- (5) The claimant must have been off the job for a waiting period of at least 7 consecutive days.

Benefits are not payable for any week with respect to which the worker has received workers' compensation or unemployment insurance benefits.

AMOUNT OF BENEFITS — An eligible claimant is normally entitled to a weekly benefit equal to 4.62 percent of the worker's earnings in the one quarter of the four-quarter base period when earnings were highest, but not more than 85 percent of the statewide average weekly wage among workers covered by the state unemployment insurance program in the preceding calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420). The Department administers all aspects of the temporary caregiver insurance program, from collection of contributions, to payment of benefits. There are substantial penalties for an employer's failure to forward contributions to the state for proper credit to the employee's account, and any worker who believes contributions are not being correctly withheld, remitted or reported should promptly contact the Department. Claims for caregiver benefits may be filed online, at https://uiclaims.ri.gov/tdionline/.

Washington

→ FAMILY LEAVE INSURANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 49.86.005 – 49.86.903

GENERAL SUMMARY: Chapter 49.86 of the state statutes authorizes the payment of up to 5 weeks of cash benefits to workers who (1) are unable to perform their regular or customary work because they are caring for a newborn or newly adopted child, and (2) have been employed for at least 680 hours during the first four of the last five complete calendar quarters preceding the claim for benefits. In general, the amount of benefits is set by law at \$250 per week for an individual who was regularly working 35 hours or more per week when the period of family leave began. The benefit amount is prorated if the claimant is regularly working less than 35 hours per week, and is reduced for weeks when there is partial work during the leave period.

The family leave insurance program applies to employers and employment to the same extent as those terms are defined in the state Employment Security Act, summarized in the previous entry.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators, crew leaders and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are covered by the family leave insurance program. A farmworker who is employed by such an establishment, and who meets the work-hours requirement noted in the summary above, may be eligible for paid family leave for care of a newborn or newly adopted child.

SPECIAL NOTES OR ADVISORIES

LAW UNIMPLEMENTED — Although enacted in 2007 and set to take effect on July 1, 2008, the family leave insurance law has not been implemented, pending legislative action to appropriate funding and enact an implementation date.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – No state agency has been designated to administer the family leave insurance program. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Hawaii

→ HAWAII PREPAID HEALTH CARE ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 393-1 - 393-48

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 12-12-1 - 12-12-76

GENERAL SUMMARY: The Hawaii Prepaid Health Care Act requires most employers in the state to provide coverage by a prepaid group health care plan to each regular employee to whom they pay monthly wages amounting to at least 86.67 times the state minimum hourly wage (the equivalent of \$802 a month, at the current minimum wage of \$9.25). Such regular employees (defined as non-seasonal workers employed by a non-seasonal employer for at least 20 hours a week) are entitled to health care coverage which includes, at a minimum, in-patient and out-patient hospital care, surgical services, physicians' visits, diagnostic laboratory and X-ray services, and maternity benefits. Employers are required to contribute no less than one-half the total cost of providing prepaid health insurance, and may withhold up to 1.5 percent of each covered employee's wages to finance the balance.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they are employed in non-seasonal positions for at least 20 hours a week and receive at least \$802 a month in wages from their employer, agricultural workers are entitled to the insurance protections of the Prepaid Health Care Act to the same extent as non-agricultural workers.

Exceptions — Regulations adopted by the state labor department currently exempt only three categories of seasonal employment, and only during their seasonal periods: (1) cultivating, harvesting and processing of coffee, (2) cultivating, harvesting and processing of macadamia nuts, and (3) cultivating, harvesting, processing, canning and warehousing of pineapples.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200). The Department is responsible for judging the adequacy of group health care plans selected by individual employers in the state, for monitoring the payment of premiums by employers and the associated withholding of workers' wages as contributions toward those costs, and for assuring the payment of benefits and other aspects of compliance by prepaid health care plan contractors. Employers who fail to comply with any provision of the Act are subject to a fine and loss of the right to do business in the state. Likewise, non-compliance by health care plan contractors may lead to a fine of \$200 for each violation

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

■ MINIMUM FAIR WAGE LAW (MIGRANT WORKER COMPULSORY HEALTH INSURANCE)

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, § 2B

GENERAL SUMMARY: The Minimum Fair Wage Law includes a provision requiring certain agricultural employers to provide health insurance to migrant farmworkers in their employ. A migrant farmworker is defined in the law as an employee (other than a worker covered by a family medical plan, or a secondary- or post-secondary student) who seasonally travels between states for purposes of employment and who lives in employer-provided labor housing.

SPECIFIC TERMS AND CONDITIONS: Every agricultural employer in Massachusetts who employs and furnishes housing to a migrant farmworker not under a government-approved employment contract must, after 10 days of employment, provide the worker with health insurance covering hospitalization, hospital services and supplies, X-ray examination, surgical fees, and in-hospital physicians' fees. The law authorizes the employer to withhold from the worker's wages up to 40 percent of the insurance premium, with the employer required to pay at least 60 percent of the total cost. For any week during which such a policy is in effect, and during which the worker is disabled and unable to work or the employer fails to withhold the worker's weekly share of the insurance cost, the employer is liable for payment of the entire premium for that week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). As part of its wider responsibility and authority under the Minimum Fair Wage Law, the Department may enter any place of employment and inspect the employer's records to assure compliance with the compulsory health insurance provision. A migrant farmworker who is living in a housing facility provided by the employer, has been on the job for more than 10 days, and has reason to believe he or she is not covered by a required health insurance policy should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

STATE LABOR LAWS (HEALTH INSURANCE FOR MIGRANT LABOR)

STATUTORY CITATION: Minn. Stat. §§ 181.73 - 181.74

GENERAL SUMMARY: The state labor laws include a requirement that certain employers of migrant labor provide such workers with health care insurance during their term of employment.

SPECIFIC TERMS AND CONDITIONS

REQUIRED INSURANCE — Any person, company or group that employs 5 or more recruited migrant workers, as defined below, must provide at its expense state-prescribed health care insurance covering such workers during the period of employment, or for illness or injury incurred while employed.

COVERED WORKERS — Subject employers are required to insure those workers who meet all of the following conditions:

- (1) Are not residents of Minnesota.
- (2) Are employed, or were recruited for employment, in the processing of agricultural products other than as field labor.
- (3) Are offered some type of housing or transportation benefits by an employer as an employment inducement.
- (4) Do not have comparable health care insurance.

EXEMPTION — No such insurance need be purchased for any worker exclusively performing on-farm services, processing agricultural products on or off the farm in a plant where more than half the commodities being processed are grown by the employer, or engaging solely in other operations defined as "agricultural labor" in the Federal Insurance Contributions Act (26 USC 3121(g)).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Job Service Division, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota 55101 (651-259-7114; toll-free 800-657-3858). A migrant farmworker who is recruited for agricultural processing work and who has reason to believe he or she is not being provided the health insurance coverage required by these provisions should contact the Department, at any local WorkForce Center.

Alaska

ALASKA EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Alaska Stat. §§ 23.15.330 - 23.15.520

GENERAL SUMMARY: This provision in the Alaska labor statutes regulates the operation of employment agencies in the state, which could include agricultural labor contractors.

SPECIFIC TERMS AND CONDITIONS: No one may, for a fee or other compensation, engage in the business of furnishing employment or help without a permit issued by the state. Issuance of such a permit is contingent upon filing of an application, posting of a bond of up to \$10,000, and payment of a \$10 biannual fee. In addition to other prohibited acts, a person who furnishes labor or employment may not (1) write or publish false, fraudulent or misleading information concerning a job opportunity, (2) place a child in employment in violation of the child labor laws, or (3) refer a worker to a workplace where a strike or lockout exists without informing the worker of the existence of the strike or lockout. The law also imposes recordkeeping requirements on employment agencies, and all books and records kept under these provisions are subject to state inspection.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842). The Wage and Hour Administration receives and reviews applications for employment agency permits and may investigate applicants prior to issuance of a permit. The agency also investigates reported violations of the law and is authorized to inspect related books and records. The agency may suspend or revoke permits when violations are confirmed. Willful infractions can result in fines, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

PRIVATE EMPLOYMENT AGENTS LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-521 - 23-536

GENERAL SUMMARY: With the objective of preventing fraud, misrepresentation, false statements and other wrongful acts, Chapter 3, Article 2 of the state labor statutes regulates the operations of private employment agents in Arizona, which may include farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for a person, firm or other entity to charge or collect a fee from anyone seeking employment, as compensation for providing workers with job information or furnishing employers with information that would enable them to secure help, without first obtaining an employment agent's license from the state. In part, issuance of a license requires the applicant to pass a written examination covering applicable labor laws and regulations, to post a cash deposit or surety bond, and to pay a license fee. An employment agent's license may be suspended or revoked, or renewal of the license may be denied, for, among other acts, making false or misleading statements to workers regarding the nature, location, duration, wages or other conditions of prospective employment, or misrepresenting any other material fact to any person seeking employment or furnishing jobs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). The Department is charged with processing new and renewal applications for employment agent licenses, including administration of the license examination and collection of fees and deposits. The agency has authority to make investigations and conduct hearings in connection with the issuance, renewal, suspension or revocation of a license. Licensees who fail to comply with these provisions are subject to administrative fines, and any individual who acts as an employment agent in the state without a license is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

ARKANSAS PRIVATE EMPLOYMENT AGENCY ACT OF 1975

STATUTORY CITATION: Ark. Code §§ 11-11-201 - 11-11-229

GENERAL SUMMARY: The Arkansas Private Employment Agency Act regulates the operation of employment agencies and employment agents, which may include farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS: With few exceptions, no one in Arkansas may, for compensation or profit, engage in the business of furnishing job information or related services to workers seeking employment, or furnishing employers with information enabling them to secure workers, without first obtaining a license to do so from the state. Issuance of a license requires the applicant to (1) pay an annual license fee, (2) post a \$5,000 surety bond, (3) pass a written examination concerning employment agency operating practices, and (4) meet certain prescribed standards of conduct, character and financial responsibility. Among numerous other prohibited acts, employment agents may not publish or circulate fraudulent or misleading notices, or make false or misleading statements, regarding the availability of jobs or terms of employment. Also, an employment agency or agent may not knowingly send a worker to any job where a strike, lockout or other labor dispute is in effect.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). The Department is responsible for receiving and processing applications for private employment agency licenses, and for monitoring the activities of licensed employment agencies and agents. The Department may suspend, revoke, or refuse to renew the license of any licensee who has violated any provision of the Act. Likewise, operation of an employment agency or operating as an employment agent without a license is a misdemeanor, punishable by a fine, imprisonment, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-129 - 31-134a

GENERAL SUMMARY: Chapter 564 of the Connecticut statutes regulates the operations of individuals or firms that charge money to find work for people seeking employment, or to find workers for employers seeking employees. This law is broad enough to apply to crew leaders and farm labor contractors.

SPECIFIC TERMS AND CONDITIONS

LICENSING — It is unlawful for anyone in Connecticut to charge a fee to find work for a person seeking employment without first obtaining a license as an employment agency from the state labor department. The annual license fee is \$150. Among the conditions for issuance or renewal of a license, the applicant must:

- (1) Post a bond in the amount of \$7,500 to cover any loss or damage caused by the licensee's failure to comply with these provisions.
- (2) Demonstrate sufficient knowledge of laws and regulations related to employment agencies and employment discrimination.
- Comply with state-prescribed restrictions on the amount and timing of the fees charged.
- (4) Comply with state-imposed recordkeeping requirements.

REGISTRATION — It is unlawful for anyone to charge an employer a fee to provide the employer with workers without first registering with the state labor department. The annual registration fee is \$150.

PENALTIES — Any person who operates an employment agency without obtaining a license to do so is guilty of a Class A misdemeanor. Violation of any other provision of this law is punishable by a fine of up to \$250.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). A worker adversely affected by an employment agency — whether licensed or registered or not — may file a complaint with the Department, which is obligated to conduct a hearing on the complaint and take action to resolve it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

COMMERCIAL EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 373-1 - 373-21

GENERAL SUMMARY: Chapter 373 of the state statutes regulates the business practices of employment agencies in Hawaii, which may encompass the recruitment and hiring activities of farm labor contractors or crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No individual, association, partnership or company may, for a fee or other compensation, engage in the business of providing employment information, procuring jobs for workers, or procuring workers for employers, without obtaining a license to do so from the state. Granting of a license is conditioned on the applicant's payment of a biennial license fee, posting of a \$5,000 bond, and successful completion of an examination covering such topics as recruitment procedures, business law and employment agency regulations.

FEES FOR SERVICES — Labor contractors and other employment agents may not charge or collect any registration fee or advance payment for job-finding services.

UNLAWFUL PRACTICES — Licensed employment agencies and their agents and employees are prohibited from committing or engaging in any of the following acts, among numerous others:

- Printing, publishing or circulating false or misleading information concerning the availability of employment, wages, hours
 or other job conditions.
- (2) Requiring an employer to withhold from a worker's earnings any fee or service charge for the contractor or employment agency, unless the worker has authorized such withholding in writing.
- (3) Recruiting for or referring workers to any job where a strike, walkout or other labor dispute exists without advising the worker of the situation in writing beforehand.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Department of Commerce and Consumer Affairs, Honolulu, Hawaii 96813 (808-587-4272). This agency is responsible for examining and licensing employment agencies in the state, and for enforcing compliance with the restrictions and duties imposed on employment agencies by these provisions. Authorized representatives of the Department may enter any place where an employment agency is operated and may inspect and copy books, contracts and other records related to its operation. Failure by a licensee to comply with the employment agency law may lead to suspension or revocation of the license and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

PRIVATE EMPLOYMENT AGENCY ACT

STATUTORY CITATION: 225 Ill. Comp. Stat. §§ 515/0.01 - 515/15

GENERAL SUMMARY: Among other provisions, the Private Employment Agency Act contains preconditions on the recruitment of migrant farmworkers by private employment agencies in Illinois. In addition to forbidding any employment agency from operating without a state-issued license, the law requires disclosure of certain information regarding terms of employment and worker protections prior to commencement of farmworker recruitment activities.

PROVISIONS APPLICABLE TO AGRICULTURE

STATEMENT OF EMPLOYMENT CONDITIONS — No private employment agency may recruit any migrant farmworker for any farm employer unless the agency first files a statement with the state labor department on a prescribed form disclosing the terms and conditions of the job and the existence of any strike or similar concerted labor activity at the job site. A copy of the statement, in English and the language in which the worker is fluent, must be given to each worker by the private employment agency prior to recruitment.

SUMMARY OF EMPLOYMENT LAWS — Along with the statement of employment conditions, a private employment agency recruiting migrant farmworkers must also provide each recruited worker with a written summary of state employment laws relevant to the pending employment. The law summary, in English and the language in which the worker is fluent, must at a minimum include an explanation of the provisions governing payment of wages, wage assignments, wage deduction orders, and migrant labor camps.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is unlawful for a private employment agency to retaliate or discriminate in any other way against a worker for having filed a complaint, given information, testified or exercised any other right granted by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). In addition to its employment agency licensing function under this law, the Department is responsible for monitoring the activities of such agencies and for investigating reported or suspected violations. Complaints against a licensee may be made to the Department orally or in writing. Penalties against agencies found in violation include license suspension or revocation, as well as criminal fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Ind. Code §§ 25-16-1-1 - 25-16-1-18

GENERAL SUMMARY: Indiana's employment agency law prohibits the operation of employment agencies (which may include certain farm labor contractors) without a state-issued license, defines certain unlawful agency practices, and requires licensees to observe specified recordkeeping duties.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person, firm or association may, for profit-making purposes, offer through any medium whatsoever to secure jobs or furnish labor, or give information as to where jobs or labor may be secured, without first obtaining an employment agency license from the state. Every applicant for such a license must post a \$1,000 bond, pay a \$150 annual license fee, and meet prescribed standards of business and professional integrity before a license will be granted. Unless revoked before expiration, an employment agency license remains in force for one year after the date of issuance. The licensee must keep the license, together with a copy of the employment agency law, posted conspicuously at every locale where the licensee does business.

PROHIBITED PRACTICES — Among numerous other restrictions, it is illegal for anyone operating as an employment agency or agent (1) to refer a worker to a job, or collect any fee from a worker, without having obtained a bona fide job order or offer, (2) to refer any worker to a job site where a strike or lockout is known to exist without notifying the worker of such condition, or (3) to publish or circulate any false, fraudulent or misleading notice, or give any false information or misrepresentation, concerning work or the availability of employment.

RECORDKEEPING — Every licensed agency must record, and safeguard for at least 2 years thereafter, (1) identifying information on every worker referred to or placed in employment, including the date of such referral or placement, (2) the amount of the fee received and the wage rate agreed upon, and (3) the name and address of the entity with whom the worker was placed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Special Investigation Unit, Indiana Department of Revenue, Indianapolis, Indiana 46204 (317-232-5977). The Department is responsible for processing license applications under the employment agency law and for issuing licenses to applicants meeting the eligibility standards outlined in the act. Authorized representatives of the Department may enter any place of business of any employment agent, inspect the agent's register, books and other records, and make arrests for violations of the employment agency law. A person who violates the law is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Iowa Code §§ 94A.1 - 94A.6

GENERAL SUMMARY: Chapter 94A of the state statutes regulates the business activities of employment agencies in the state, which may include the operations of farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSE — It is unlawful for any person or firm, for a fee or other compensation, to bring together employers seeking help with workers looking for employment without obtaining an employment agency license from the state. As a condition for receipt of a license, the applicant is required to post a surety bond in the sum of \$30,000, to pay any damages due to a wrongful act or violation of law on the part of the applicant. The applicant must also furnish the state agency with a fee schedule and a copy of its contract form, and pay a \$75 license application fee.

RECORDKEEPING — Employment agencies are required to keep records of each worker who signs an employment contract or agreement, the name and address of each employer to whom they refer an employee, and the respective fees charged. Each record must be kept for at least 2 years. They must also provide a copy of the respective contract or agreement — specifying the fee to be paid by the employee — to each employee referred to an employer.

PROHIBITED ACTS — Among other prohibitions spelled out in the law, a worker cannot be required to pay a fee to an employer as a condition of hire, and an employee cannot be compelled to reimburse the employer for a fee the employer paid to an employment agency when the employee was hired. Likewise, employment agencies are forbidden to fraudulently promise or deceive an employer seeking help or a worker seeking employment, charge an employee a fee greater than is allowed under the fee schedule filed with the state, or charge a fee greater than 15 percent of the employee's annual gross earnings.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-5615). The Division is responsible for receiving employment agency license applications, investigating applicants, and licensing those applicants found qualified to conduct such a business. The Division may revoke a license at any time, for cause.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Kan. Stat. §§ 44-401 - 44-412

GENERAL SUMMARY: The state's private employment agency law requires any for-profit business in Kansas which uses advertising to solicit workers seeking employment, or which provides job information to workers seeking employment, and charges the workers a fee to do so, to (1) obtain a private employment agency license from the state, and (2) comply with specific rules regulating their activities.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open, operate or maintain a business performing any private employment agency activities or service without a license issued by the state labor department. The annual license fee is \$25.

BOND — Each applicant for a license must post a bond in the amount of \$500 as security against violations of the employment agency law.

PROHIBITED ACTS — It is illegal for a licensed employment agency to publish any false or fraudulent notice or give any false information to workers concerning work or employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-296-5000, extension 1068). The Department is responsible for licensing private employment agencies and for monitoring compliance with the provisions of the employment agency law. When a complaint is received, the Department must investigate and is required to report confirmed violations to the state attorney general, or to the district or county attorney, for prosecution. Violations are treated as class C misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

PRIVATE EMPLOYMENT SERVICE LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:101 - 23:115

GENERAL SUMMARY: Among the state labor laws are provisions regulating the operations of individuals and businesses that charge workers a fee to find or attempt to find them employment. These provisions apply to both agricultural and non-agricultural employment situations.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one operate, solicit or advertise a service that charges a fee to the worker to match workers with jobs without first obtaining a license to do so from the state. As prerequisites for receiving a license, initial applicants must pay a \$200 annual license fee, a \$300 investigation fee, and a \$100 examination fee.

BOND — License applicants must obtain and maintain in effect a \$5,000 surety bond, covering potential damages resulting from operation of their business.

FEES FOR SERVICES — The fees charged by a private employment service must be reasonable and are subject to numerous restrictions and conditions spelled out in the law.

PROHIBITED ACTS — Among other prohibited conduct, employment agencies may not (1) share the fees they collect from one party with any other party to the employment arrangement, (2) knowingly publish any false, fraudulent or misleading information related to a job or employment, or (3) send a worker to a worksite where a strike or other labor dispute is in progress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679). This agency is responsible for licensing of private employment services in the state, and for investigating and prosecuting complaints of violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 140, §§ 46A - 46R

RELATED REGULATIONS: 454 Mass. Code Regs. 24.00

GENERAL SUMMARY: Chapter 140 of the state statutes includes provisions regulating employment agencies, briefly defined as individuals or businesses that, for a fee, attempt to find employment for workers or workers for employers. These provisions may apply to farm labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open, operate or advertise an employment agency in Massachusetts without obtaining a license to do so from the state. The license application must include affidavits from two reputable residents of the state attesting that the applicant is of good moral character.

BOND — Each licensed employment agency must obtain a bond in the amount of \$3,000 as security for the payment of any damages caused in connection with the agency's activities.

RECORDKEEPING — The agency must keep a register of all applicants seeking employment and all employers seeking workers, to include the nature of the employment involved, the wages offered or accepted, and the fees paid by the worker or the employer. These records must be kept for at least 3 years following the date of the last entry.

PROHIBITED ACTS — Among other prohibited acts, it is illegal for an employment agency, whether licensed or not, (1) to publish any false, fraudulent or misleading information regarding employment, (2) to send a worker to a job site without first obtaining a bona fide job order, or (3) to send a worker to a job site affected by a strike.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). This agency has authority to inspect the premises, registers, contract forms and other records of employment agencies doing business in Massachusetts, and may investigate any complaint lodged against a licensed employment agency by a worker or employer. The Department may suspend or revoke the license of any agency found to have violated any provision of the employment agency law. Violations are punishable by fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Minn. Stat. §§ 184.21 - 184.41

GENERAL SUMMARY: Chapter 184 of the Minnesota statutes regulates the operation of employment agencies in the state, implicitly including certain agricultural crew leaders and labor contractors.

SPECIFIC TERMS AND CONDITIONS

Every employment agent — defined as an individual, firm or other group that engages for profit or compensation in the business of furnishing workers with information or services enabling them to obtain employment, or furnishing anyone who is in the market for help of any kind with information enabling the employer to obtain workers — must enter into a written contract with each worker to whom the agent renders services. The contract must be dated and show the name of the agent, the charges or fees to be paid by the worker for the agent's services, and other prescribed information.

Among other conditions specified in the law, employment agents are required (1) to give every worker from whom any fees or charges are exacted an itemized receipt for each such charge, and (2) to keep a detailed record identifying each employer to whom any worker was referred, the name and address of each such worker, the occupation or position offered and filled, the expected duration of employment, the wage to be paid, the amount of the agent's fee, the date and amount of payment, and related information. It is unlawful, among other practices, for an employment agent to knowingly print or publish a false or fraudulent notice or advertisement regarding employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). The Department has supervisory and investigative authority over employment agencies, agents and counselors. Representatives of this agency have the right to examine all records required to be kept by such entities and to investigate the advertisements and other communications circulated by them before the public, to determine compliance. The Department may take legal action against employment agencies or agents for confirmed violations, and any such violation may also be prosecuted as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-501.01 - 48-524

GENERAL SUMMARY: The state labor laws include provisions regulating the business practices of employment agencies, which may include certain farm labor contractors.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person, firm or corporation may procure employment for any worker, where a fee or other valuable consideration is collected directly from the job-seeker, without first being licensed as a private employment agency. Similarly, no labor agent or other entity from outside the state may enter Nebraska and attempt to recruit, hire or transport out of Nebraska any agricultural workers, singly or in groups, for any purpose without an employment agency license permitting such activity.

BOND — Each applicant for a license must secure a surety bond in the amount of \$10,000, conditioned on compliance with the duties, responsibilities and restrictions imposed on licensees by these provisions.

RECORDKEEPING — Entities licensed as private employment agencies must issue to each worker placed on the job, and to each employer furnished with one or more workers, a record showing the occupation involved, the name and address of the worker, the amount of the fee charged the worker, the wages to be paid, the name and address of the employer, and the existence of any known strike or lockout at the job site.

REPORTING — Labor agents who recruit or hire farmworkers in Nebraska for employment outside the state must make monthly reports to the state enforcement agency showing (1) the name and address of each contractor, recruiter or comparable representative engaged in such activities on their behalf, (2) the name, address, age and sex of each worker solicited for out-of-state employment, (3) the name and address of each employer to whom the worker is referred, (4) the place of employment, (5) the kind of work to be performed, (6) the term of employment, (7) the wages to be paid, and (8) whether or not transportation is to be furnished, arranged or paid for, either out of or on return to Nebraska.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). The Department is responsible for the licensing of private employment agencies in the state and for monitoring their compliance with these provisions. The Department may cancel the license of any employment agency found to have violated the requirements imposed on the licensee and may institute criminal proceedings to enforce the prescribed penalties. The Department is also authorized to bring action in the name of the state against the licensee's bond for violation of any of its conditions, and to approve action on the bond by private parties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 611.020 - 611.320

GENERAL SUMMARY: Chapter 611 of the state statutes regulates the business activities of persons, firms and other entities that, for a fee, furnish information to job-seekers enabling them to secure employment, furnish information to employers enabling them to obtain workers, or maintain a record of individuals seeking employment or workers. The term "employment agency" may include certain farm labor contractors, but it does not include employers who procure their own workers or the agents of such employers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may engage in the activities of an employment agency, as defined briefly above, without first obtaining a license from the state to do so.

BOND — Before a license is issued, the applicant must deposit with the state enforcement agency a \$1,000 bond or equivalent security, conditioned on compliance with the employment agency law and payable to the people of the state in the event of damages by misrepresentation, fraud, or the unlawful acts or omissions of the licensee in connection with the business for which the license is granted.

RECORDKEEPING — Every licensee must make, and retain for at least 2 years, a record of every worker who secures employment through the licensee's services. The record must include, in part, a copy of the contract between the worker and the employment agent, and the receipt given to the worker for any fees charged by the agent.

PROHIBITED PRACTICES — Among other unlawful acts, it is illegal for an employment agency or agent (1) to publish or circulate any false, fraudulent or misleading information concerning employment or labor, or (2) to send a worker to any place of employment where a strike, lockout or similar labor dispute is in progress without first advising the worker of that fact in writing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). In addition to its employment agency licensing function, this agency is responsible for monitoring licensees' business activities and investigating complaints involving employment agencies in the state. On behalf of a complainant, the agency is authorized to bring action on the bond of any licensee against whom a claim or suit has been filed, for damages arising from the licensee's business. The law also prescribes criminal penalties for violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

O PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8-43 – 34:8-63 RELATED REGULATIONS: N.J. Admin. Code 13:45B, Subch. 2

GENERAL SUMMARY: Chapter 8 of the state labor laws includes provisions regulating the operation of employment agencies, a term broadly defined but including any business or agency which, for a fee, procures jobs for workers or provides workers for employers, whether such fee is collected from the worker or the employer. No one may perform any of the functions of an employment agency in New Jersey without first obtaining from the state an employment agency operator's license, the issuance of which, among other conditions, requires successful completion of a written examination concerning (1) the provisions of the employment agency law and the associated administrative rules, and (2) the applicant's relevant knowledge and experience. Likewise, employment agency owners must post a \$10,000 bond covering liability for damages due to misrepresentation, fraud or any unlawful act committed in the course of the licensee's business. The statute defines a multitude of prohibited activities which are grounds for license suspension, revocation or non-renewal, as well as for civil money penalties.

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PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that (1) workers' wages are paid directly by the farm operators for whom the workers' services are performed and (2) no job-finding or employment fees are charged to or collected from the workers, the employment agency law does not apply to anyone who furnishes seasonal field or harvest workers to farm operators.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Regulated Business Section, Division of Consumer Affairs, New Jersey Department of Law and Public Safety, Newark, New Jersey 07101.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: N.Y. General Business Law §§ 170 - 194

GENERAL SUMMARY: Article 11 of the state business statutes regulates the activities of employment agencies in New York, defined broadly as individuals, corporations, associations, agencies and other entities (implicitly including certain farm labor contractors) that, for a fee, attempt to procure jobs for persons seeking employment or furnish workers to employers seeking the services of

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open or operate an employment agency, as generally described above, without first obtaining a license to do so from the state. Among other prerequisites to issuance of an employment agency license, the applicant must pay a license fee and post a surety bond covering damages that may result from misrepresentation, fraud, deceit or any illegal act by the licensee while performing the functions authorized by the license.

RECORDKEEPING — For every job applicant referred to a job, licensees are required to keep a register of the date of application, the start date of employment, and the fee assessed for the employment agent's services. Similar data on the employers served by the agent must also be maintained.

LIMITATION ON FEES — An employment agency may not charge or accept a fee or other compensation for its services until after a job applicant has actually been matched with a job. The total fee for placement of a worker into agricultural employment of less than a month's duration is limited to 10 percent of the salaries or wages received by the worker over the life of the job, or 12 percent when one meal per working day is provided, 14 percent for two meals per day, and 18 percent for three meals and lodging. For a job lasting longer than a month, these same fee ceilings apply only to the first full month's salary or wages.

PROHIBITED CONDUCT — Among other illegal acts, it is unlawful for an employment agency (1) to circulate any false, fraudulent or misleading information, (2) to knowingly refer a worker to employment which violates state or federal minimum wage or child labor laws, or (3) to refer a worker to a workplace where a labor dispute is in progress without notifying the worker of that fact in writing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Apart from the Department's licensing function under the employment agency law, representatives of the Department are authorized to inspect the registers, receipt books and other records maintained by each employment agency, and to subpoena the records of any employer involved when there are grounds to believe a violation has been committed. Any worker who has been recruited or referred to a job by an employment agency or agent in apparent conflict with these provisions may file an oral or written complaint with the Department, which may suspend or revoke the agency's license and impose an administrative fine of up to \$500 if evidence presented in a hearing on the complaint confirms a violation. Non-compliance with the employment agency law is also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

EMPLOYMENT AGENCY LICENSING LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-13-01 - 34-13-16

GENERAL SUMMARY: Chapter 34-13 of the state statutes regulates the business activities of employment agencies and agents in North Dakota, in part by requiring such entities to obtain a license from the state, to post bond as security against violations of conditions on the license, to disclose the amount of their fees and pertinent employment information to each worker referred to a job, and to observe certain recordkeeping duties and other specified rules of practice.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided the contractor employing the workers pays required Social Security and unemployment insurance taxes, provides required workers' compensation insurance coverage, and is responsible for the workers' job performance, the employment agency licensing law does not apply to farm labor contractors and others who employ workers to render part-time or temporary services to or for a farm operator or other third party.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Oklahoma

O PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Okla. Stat. Title 40, §§ 52 - 57

RELATED REGULATIONS: Okla. Admin. Code §§ 380:10-1-1 - 380:10-1-10

GENERAL SUMMARY: Any person, firm or corporation that, for a fee, procures employment for workers seeking a job, or provides information as to where jobs may be obtained, must first obtain a license from the state to do so. Among other conditions for receipt of a license, the agency or agent must obtain a bond — in the amount of \$5,000 in the first year, \$3,000 in the second year, and \$1,000 each year thereafter. The private employment agency law limits the fees such businesses may charge for their services, and requires employment agents to keep detailed records of their job placement activities and to observe prescribed rules of fair practice.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided the person employing the workers pays their wages, pays Social Security and unemployment insurance taxes, carries required workers' compensation insurance, and is responsible for the workers' performance on the job, the private employment agency law **does not apply** to anyone (implicitly including a farm labor contractor or crew leader) who employs workers to perform temporary or part-time services for or under the direction of a third person (such as a farm operator).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Safety Standards and Licensing Division, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 658.005 - 658.250

GENERAL SUMMARY: Chapter 658 of the Oregon statutes includes provisions regulating employment agencies in the state, briefly defined as individuals, businesses and organizations that directly or indirectly charge money to find or obtain jobs for workers, or that provide information regarding where jobs or workers may be procured. Among other requirements, an employment agency must file a \$5,000 surety bond (or equivalent evidence of financial responsibility) with the state, as security for payment of debts and any damages resulting from unlawful acts by the agency. Employment agencies are also obligated to keep accurate and current records of job orders, job referrals, fees and other aspects of their business, and to put in writing all registration and referral agreements made with any worker seeking employment through their services. The law imposes numerous additional duties and rules of conduct with which employment agencies are compelled to comply.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment agency law **does not apply** to farm labor contractors who are subject to the state farm labor contractor law (summarized in the next entry).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oregon Bureau of Labor and Industries, Portland, Oregon 97232. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Puerto Rico

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 564 - 574

RELATED REGULATIONS: Regulation 417

GENERAL SUMMARY: Chapter 33 of Puerto Rico's labor statutes regulates, among related activities, the operation of private employment agencies, broadly defined as any person or organization that offers to arrange employment for individuals seeking work or to procure workers for employers seeking help. The private employment agency law applies to all such activities, whether or not a fee is charged for the services provided and irrespective of the nature of the employment offered or sought.

SPECIFIC TERMS AND CONDITIONS

LICENSING — It is illegal to operate an employment agency in Puerto Rico without a license issued by the administering agency authorizing such activity. In addition to a finding that the applicant is of good moral character and professional integrity, issuance of a license requires the posting of a bond of at least \$3,000 covering loss or damage arising from non-compliance with the law, and payment of a license fee.

PROHIBITED ACTS — Among numerous other infractions described in the statute, licensed employment agencies are forbidden (1) to make any false promise or give false information to a worker or employer, (2) to send a worker to a job site where a strike or lockout is in progress without first advising the worker in writing that such a condition exists, and (3) to fail to keep required records of their activities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). The Department is responsible for the licensing of employment agencies and for assuring compliance by licensees with the restrictions and duties imposed on them by these provisions. In response to a specific complaint or on the agency's own accord, representatives of the Department may visit and inspect any premises where an employment agency is conducting business, and may examine and copy registers and other documents pertaining to operation of the business. Besides suspension or loss of the license to operate, violators of the employment agency law are subject to prosecution on criminal misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

EMIGRANT AGENCY LICENSING LAW

STATUTORY CITATION: S.C. Code §§ 16-17-610 - 16-17-630

GENERAL SUMMARY: With few exceptions, the state criminal statutes deem it a misdemeanor and an offense against public policy for anyone (other than the South Carolina Department of Employment and Workforce) to solicit or hire laborers in South Carolina for employment in another state without first obtaining an emigrant agent's license from the state and each county in which the agent intends to solicit or hire workers. The only prerequisite for issuance of a state license is payment of an annual license fee of \$500 for each county of intended operation; county licensing requires payment of an annual fee of \$2,000 in each such jurisdiction.

PROVISIONS APPLICABLE TO AGRICULTURE: The emigrant agent licensing law **does not apply** to anyone soliciting or hiring workers in South Carolina for agricultural employment in an adjacent state, as long as the neighboring state places no limitation on the solicitation or employment of farm labor by South Carolina employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – South Carolina Office of the State Treasurer, Columbia, South Carolina 29201.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - County treasurers.

Utah

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Utah Code §§ 34-29-1 - 34-29-20

GENERAL SUMMARY: Chapter 29 of the Utah labor statutes regulates employment agents in the state, defined in brief as anyone who, for money or other valuable consideration, acts as an intermediary between employers and job-seekers, which may include certain farm labor contractors or crew leaders.

SPECIFIC TERMS AND CONDITIONS

LICENSING — It is illegal for anyone to engage in the business of obtaining work or employment for others, or to act as a broker between employers and persons seeking work, without first obtaining a license to do so from the city where the business is to be carried on (or from the county, if the business is not within a city or town). As one of several conditions on issuance of a license, the applicant must post a bond in the amount of \$1,000, conditioned on compliance with the employment agency law and payment of any damages incurred as a result of the licensee's operations. The license must be conspicuously displayed at the employment agent's place of business.

FEES FOR SERVICES — Private employment agents must maintain a schedule of the fees to be charged in the conduct of their operations, and the fee schedule must be posted where it is plainly visible to potential clients. No agency may charge a fee greater than (a) the fee in effect at the time the employment contract is issued, or (b) 25 percent of a worker's actual earnings during the first 30 days on the job if the worker was terminated during the first 30 days.

RECORDKEEPING — Licensees must keep a register of each employer from whom they have received a job order, and a corresponding record on each worker to whom they have furnished information or assistance regarding employment.

DISCLOSURES — Employment agencies and agents are required to provide every worker referred to employment with a copy of the terms of the job, including the amount of the fees received by the agent, the type of work to be performed, the wage rate to be paid, the expected duration of the job, and the name and address of the employer.

PROHIBITED ACTS — Among other offenses described in the statute, it is a misdemeanor for an employment agent to give any false employment information, to misrepresent the terms and conditions of any employment, to fail to keep required records, or to willfully make any false entries in the required records.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The city, town or county in which an employment agency carries on its business is responsible for licensing the agency, and for handling complaints and questions regarding the fees charged by employment agencies for their services.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has suffered legal damages due to unlawful or improper practices by an employment agent may bring suit against the agent's bond, using a private attorney or public legal service provider.

Washington

O EMPLOYMENT AGENCY ACT

STATUTORY CITATION: Wash. Rev. Code §§ 19.31.010 - 19.31.910

GENERAL SUMMARY: The Employment Agency Act requires businesses which charge a fee to procure employment for job-seekers, or which give out any sort of employment information for profit, to obtain a license from the state to do so. Licensing is conditioned, in part, on posting a \$2,000 surety bond or equivalent security to cover any legal damages stemming from violation of the Act by the licensee. Employment agencies are required to keep a prescribed record of all services rendered to employers and job applicants, to provide applicants with a written contract outlining the cost and other terms of the job placement services they receive, and to observe other duties and rules of conduct.

PROVISIONS APPLICABLE TO AGRICULTURE: The Employment Agency Act does not apply to farm labor contractors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Agencies Section, Washington State Department of Licensing, Olympia, Washington 98507.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

PRIVATE EMPLOYMENT AGENCY LAW

STATUTORY CITATION: W. Va. Code §§ 21-2-4 - 21-2-15

GENERAL SUMMARY: Article 2 of the West Virginia labor laws regulates, among other matters, the operation of private employment agencies, which include all persons, firms, corporations and associations that furnish job-seekers with employment information, or that provide employers with information or other assistance in procuring labor or employees. The private employment agency law applies equally to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may provide services as an employment agent for a fee or profit without first obtaining a letter of approval from the state labor department, which authorizes the state tax department to issue a business license. A state business license issued to an employment agent must be conspicuously displayed at all times where the agent conducts business. The licensing provision does not apply to employers who are making placements for individuals on their own payroll.

RECORDKEEPING — An employment agent must maintain a record on each worker referred to employment. At a minimum, the record must contain the name of the worker, the name of the employer to whom the worker was sent, the nature of the employment, and the rate of pay. A copy of the agent's records must be submitted monthly to the state enforcement agency.

PROHIBITED ACTS — It is illegal for an employment agent to knowingly make any false statement to a job-seeker, or to withhold any pertinent information furnished by an employer, regarding the availability, nature, location, duration, pay rate, or other conditions of employment or work.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890). Aside from issuing letters of approval under the private employment agency law, it is the Division's duty to supervise the business activities of licensed agents. Representatives of the Division may at any time inspect the registers and other records maintained by any employment agency in the state, may notify the state tax commissioner concerning any such establishment found to have violated the law or the associated regulations, and may request revocation of the establishment's business license. Failure to comply with these provisions is a misdemeanor, punishable by a fine, jail term, or both

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – West Virginia State Tax Department, Charleston, West Virginia 25301 (304-558-3333). As noted above, this agency is responsible for issuing business licenses to private employment agencies for which the Division of Labor has provided a letter of approval.

Wisconsin

O EMPLOYMENT AGENTS LAW

STATUTORY CITATION: Wis. Stat. §§ 105.01 - 105.16

GENERAL SUMMARY: Chapter 105 of the Wisconsin statutes regulates the business activities of employment agents, a term which includes all persons who furnish job-seekers with information enabling them to secure employment, furnish employers with information enabling them to fill job vacancies, or maintain a register of persons seeking employment or workers. The employment agents law forbids the conduct of such activities unless the employment agent is licensed by the state and covered by a \$5,000 surety bond.

License applicants must submit a schedule of the fees charged to workers and employers using their services, and licensees are prohibited from assessing charges in excess of fee ceilings fixed by the state enforcement agency. Among other prohibited acts, employment agents may not misrepresent any material aspect of any employment or labor that they may be in a position to secure, and no agent may place a worker in any employment which is unlawful or in conflict with a regulation or order of the state agency. Employment agents are also subject to administratively prescribed recordkeeping and reporting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE: The employment agents law does not apply to persons (implicitly including seasonal agricultural labor contractors) who employ workers to render temporary or part-time services to, for or under the direction of a third party, provided that the person employing the workers (1) pays federal Social Security taxes, pays state and federal unemployment insurance contributions, carries required workers' compensation insurance, and maintains liability insurance covering the acts of its employees while on the job, and (2) does not require a worker to forfeit or pay any amount for accepting permanent employment with any one of the third parties for whom the worker performed temporary or part-time services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

EMPLOYMENT AGENCY LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-8-101 - 27-8-111

GENERAL SUMMARY: Chapter 8 of the Wyoming labor statutes regulates employment offices or agencies operated for the purpose of furnishing employers with workers or furnishing workers with employment, or where a fee or other consideration is charged or received for such services. The employment agency law applies without regard to occupational or industrial classification.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person, firm or corporation may open, operate or maintain an employment agency, as described in brief above, without first obtaining a license from the state to do so. The license must be posted conspicuously at the location where the agency conducts business.

BONDING — Each applicant for a license is required to secure a surety bond in the amount of \$500, conditioned on compliance with the employment agency law and related regulatory provisions.

PROHIBITED ACTS — It is illegal for a licensed agency to give any false or misleading information, or make any false promise, relating to work or employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). Anyone who has received false or misleading information from an employment agent or labor contractor, or who has evidence of a violation of the employment agency law, may file a complaint with the Department, which must investigate the charges and may revoke the agent's license if the allegations are confirmed. Likewise, it is the Department's duty to file a report of the violation with the state attorney general or the local district attorney for enforcement of the criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

STATUTORY CITATION: 29 USC §§ 1801 - 1872

RELATED REGULATIONS: 29 CFR Part 500

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act provides for the registration of farm labor contractors, imposes restrictions on their activities, and prescribes requirements that farm labor contractors, agricultural employers, agricultural associations and others must follow for the protection of migrant and seasonal farmworkers.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — In general, no person may, for a fee or other compensation, recruit, solicit, hire, employ, furnish or transport any migrant or seasonal agricultural worker unless the person has a certificate of registration issued by the U.S. Department of Labor, specifying which farm labor contracting activities that individual is authorized to perform; farm operators, agricultural associations and their employees are not required to register, but are subject to other requirements and restrictions under the Act. Registered farm labor contractors and their registered assistants must carry their registration certificates at all times while engaging in farm labor contracting activities and must, when so requested, show the certificate to all persons with whom they intend to deal as a farm labor contractor.

CONFIRMATION OF REGISTRATION — No one may use the services of a farm labor contractor to supply any migrant or seasonal agricultural worker without first determining that the contractor has a valid registration certificate which authorizes the activity for which the contractor is utilized.

MIGRANT AGRICULTURAL WORKER PROTECTIONS — Every farm labor contractor, agricultural employer and agricultural association that employs any migrant agricultural worker (those who work seasonally or temporarily and who are required to be absent overnight from their permanent place of residence) must comply with specific duties and responsibilities, some of which are summarized as follows:

Disclosure of Information — Every contractor, employer or association that recruits any migrant worker for employment must, at the time of recruitment, provide the worker with a written statement specifying (1) the place of employment, (2) the wage rates to be paid, (3) the crops and crop activities in which the worker may be employed, (4) the period of employment, (5) the transportation, housing and any other benefits to be provided, as well as the cost to be charged for each of them, (6) the existence of any strike or similar labor unrest at the workplace, (7) the existence of any arrangement under which the contractor or the employer will receive a commission or other benefit from stores or other establishments as a result of sales to the workers, and (8) whether state workers' compensation is provided and, if so, related workers' comp insurance information.

Posting — Contractors, employers and associations that employ any migrant worker must post conspicuously at the place of employment a poster outlining the rights and protections afforded by the Migrant and Seasonal Agricultural Worker Protection Act, and, whenever housing is provided to the workers, the contractor, employer or association must post or furnish each worker a written statement of the terms and conditions of occupancy.

Payroll Records — Farm labor contractors, farm employers and farm associations that employ any migrant worker must keep detailed records of each worker's pay rate, piecework units earned (if paid on a piecework basis), hours worked, total pay period earnings, the purpose and amount of each deduction made from the worker's pay, and net pay. Payroll records must be preserved for at least 3 years.

Payment of Wages — Migrant farmworkers must receive their wages when due, but in no case less often than every 2 weeks or semi-monthly. At the time of payment, each migrant worker employed must receive an itemized written pay statement for the period covered, showing the same information required to be kept in the payroll record, as described above.

Compulsory Purchases — No farm labor contractor, agricultural employer, or agricultural association may require any migrant worker to purchase goods or services solely from the contractor, employer or association.

Safety and Health of Housing — The Act prescribes specific conditions for the provision of housing to migrant farmworkers, including requirements for pre-occupancy inspection and certification (see entry, U.S. — Housing — Farm Labor Housing Standards).

SEASONAL AGRICULTURAL WORKER PROTECTIONS — Farm labor contractors, agricultural employers and agricultural associations that employ seasonal farmworkers (those who work seasonally or temporarily, but are not required to be absent overnight from their permanent residence) must comply with essentially the same disclosure, posting, recordkeeping and wage payment requirements, and observe the ban on compulsory purchases, applicable to the employment of migrant farmworkers, as described above.

FALSE OR MISLEADING INFORMATION — In making the information disclosures referred to above, no contractor, employer or association subject to the Act may knowingly provide false or misleading information to any migrant or seasonal worker concerning the terms, conditions or availability of employment.

LANGUAGE REQUIREMENTS — The information required to be disclosed to migrant and seasonal workers under the Act must be furnished in writing, either in English or in the language most easily understood by the workers involved.

MOTOR VEHICLE SAFETY — The transportation of migrant and seasonal farmworkers by farm labor contractors, agricultural employers and agricultural associations is subject to safety and other standards prescribed in the Act, including requirements for insurance coverage (see entry, U.S.— Transportation — Farmworker Transportation Safety).

COVERAGE EXEMPTIONS — Among other, more narrow exceptions, the Migrant and Seasonal Agricultural Worker Protection Act does not apply to:

- (1) Any individual who engages in farm labor contracting activity on behalf of a farm or other agriculturally related establishment which is owned or operated by the individual or an immediate family member, and when the contracting activity is performed only for that establishment and exclusively by that individual or family member.
- (2) Any business or individual employer (other than a farm labor contractor) who did not use more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (3) Any person who engages in farm labor contracting activity solely within a 25-mile radius of the person's permanent place of residence, only in that one state, and for not more than 13 weeks a year.
- (4) Any labor organization or union.

SPECIAL NOTES OR ADVISORIES

JOINT RESPONSIBILITY — Generally, the workers in a farm labor contractor's crew are considered jointly employed by the farm labor contractor and the farmer who is using their labor, if the farmer has the power to direct, control or supervise their work or to determine pay rates and the method of payment. In the event that a farm labor contractor fails to comply with the disclosure, posting and wage payment requirements outlined above, the farmer is legally responsible for compliance.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). Officers of the Wage and Hour Division have authority under the Act to conduct investigations, and consequently they may enter and inspect workplaces (including housing and vehicles), view and copy employment records, and question farm labor contractors, employers and other parties, either in response to a specific complaint or otherwise. The agency may impose civil penalties and refer violations for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Secretary of Labor may delegate enforcement responsibilities to a state agency upon federal approval of a state plan which describes the functions to be performed by the state agency and the methods to be followed and resources to be devoted to performing those functions. Using that authority, the labor secretary has delegated to these states the responsibility for receiving and processing applications for farm labor contractor certificates, and for issuing certificates to qualified applicants: Florida, New Jersey, and Virginia.

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

California

FARM LABOR CONTRACTOR LAW

STATUTORY CITATION: Cal. Lab. Code §§ 1682–1699

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 13660-13667.4

GENERAL SUMMARY: The state Labor Code regulates the activities and conduct of farm labor contractors in California, by imposing licensing requirements on individuals who, for a fee, (1) employ workers to render services in connection with the production of farm products to, for or under the direction of a third party, or (2) recruit, solicit, supply or hire workers on behalf of a farm employer and provide the workers with allied services such as transportation, housing, workplace supervision or disbursement of pay.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may act as a farm labor contractor until a license permitting such activity has been issued to the individual by the state, and unless such license is fully in effect and in the contractor's possession. Prerequisites for issuance of a license include (1) the filing of an application, (2) an investigation of the applicant by the state administering agency, (3) the posting of a surety bond of up to \$75,000 and payment of license and filing fees by the applicant, (4) successful completion of an examination covering laws and regulations related to farm labor contractors and demonstrating the contractor's knowledge of safe work practices related to pesticide use, (5) registration of the applicant and the applicant's employees under the federal Migrant and Seasonal Agricultural Worker Protection Act, if required, and (6) completion by the applicant's employees of training related to the recognition, prevention and reporting of sexual harassment in the workplace.

DUTIES OF LICENSEES — Licensees must (1) carry the contractor's license with them at all times and show it to all persons with whom they intend to deal in their capacity as farm labor contractors, (2) promptly file a change of address with the local post office serving the address of record on the face of the license after each permanent move, (3) pay or distribute money or other things of value to the individuals entitled thereto promptly when due, (4) comply fully with all legal and valid agreements and contracts entered into with any third party in connection with operation as a farm labor contractor, (5) have available for inspection, by the workers and the growers with whom they contract, a written statement in English and Spanish showing the rate of compensation received from the growers and the corresponding compensation being paid to the workers, (6) obtain appropriate liability insurance to cover potential damage to persons or property arising from the contractor's use or ownership

of any vehicle for transporting workers, (7) display prominently, at the worksite and on all vehicles used to transport workers, the rate of compensation being paid to the workers, (8) register with the agricultural commissioner of each county in which the contractor has contracted with a grower, and (9) provide their supervisory employees with certain required information and training regarding employment-related laws and regulations.

PROHIBITED ACTS — No applicant for a farm labor contractor's license may make any misrepresentation or false statement in the application, and no licensee may make any false, fraudulent or misleading representation, or publish or circulate any false or misleading information concerning the availability of employment or the terms and conditions of any employment. Licensees are forbidden from sending or transporting any worker to any place where the contractor knows a strike or lockout exists, without notifying the worker that such a condition exists.

TRANSPORTATION — All vehicles used by a licensee to transport workers must display at their entrance the contractor's name and contractor license number. Contractors and their employees who operate a bus or truck in the transportation of workers must be licensed in accordance with state laws applicable to farm labor vehicles (see entries,

California-Transportation-Farmworker Transportation Safety), and must be registered with the state labor commissioner.

STATEMENT OF WAGE DEDUCTIONS — Every licensee must, at the time of each payment of wages (which must be not less often than once a week) provide each worker with an itemized written statement showing each and every deduction made from the worker's earnings. The statement may be a detachable part of the check or draft used to pay wages, or a separate document.

COVERAGE EXCEPTIONS — The state farm labor contractor law does not apply to anyone who performs recruitment, supervision and other such services not as an independent contractor, but only within the scope of the person's employment by the agricultural establishment on whose behalf those particular activities are being performed. Likewise, for licensing and compliance purposes, the term "farm labor contractor" does not include a commercial packinghouse engaged in both the harvesting and packing of citrus fruit or soft fruit for a client or customer.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division is in charge of processing farm labor contractor license applications, issuing such licenses, and monitoring compliance with these provisions by licensees. Unlicensed individuals who operate as farm labor contractors, as well as licensees who violate the requirements imposed on them by these provisions, are subject to civil action and criminal prosecution. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, a list of which may be found online at http://www.dir.ca.gov/dlse/DistrictOffices.htm, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by an alleged violation of this law may take legal action in civil court to recover lost wages, damages (in some cases), attorney's fees and court costs, using a private attorney or public legal service provider.

Colorado

WAGE PAYMENT LAWS (FIELD LABOR CONTRACTORS)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-4-101 - 8-4-123

GENERAL SUMMARY: Among other provisions, the state wage payment laws require individuals who recruit, solicit, hire or furnish migratory farm labor for seasonal employment to register with the state and to comply with certain obligations and restrictions in their contracting activities.

PROVISIONS APPLICABLE TO AGRICULTURE

REGISTRATION — No one may operate as a field labor contractor in Colorado without first obtaining a certificate of registration from the state, and unless the certificate is fully in effect and in the contractor's immediate possession. Among other prerequisites to issuance of a registration certificate, the applicant must present evidence that he or she has satisfied state workers' compensation insurance coverage requirements.

OBLIGATIONS — Field labor contractors must carry the certificate of registration at all times while engaging in contractor activities and exhibit the certificate to all parties with whom they intend to deal in that capacity. At the time of recruitment, contractors must provide each migratory laborer with a written disclosure, in a language in which the worker is fluent, indicating the area of intended employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rate to be paid, and the charges to be assessed against the worker for contracting services. Labor contractors must pay workers' wages promptly when due and must promptly deliver to each worker anything of value entrusted to them on the worker's behalf.

PROHIBITED ACTS — The state may refuse to issue or renew a registration certificate, or may suspend or revoke an existing certificate, in the case of any contractor who (1) makes false statements or misrepresentations on an application for a certificate, (2) gives false or misleading information to migrant workers concerning the terms, conditions or availability of agricultural employment, (3) fails without justification to perform agreements with farm operators or to comply with the terms of any working arrangements made with workers, or (4) allows required workers' compensation insurance to lapse or become inoperative.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). In enforcing these provisions, the Department may investigate specific complaints lodged by migratory workers against field labor contractors, or may investigate suspected violations on its own initiative. Any contractor found to have violated any of these provisions is subject to civil fines imposed by the agency, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

STATE LABOR LAWS (AGRICULTURAL LABOR CONTRACTORS)

STATUTORY CITATION: Del. Code Title 19, § 1501

GENERAL SUMMARY: Chapter 15 of the state labor laws imposes preconditions on the use of farm labor contractors by certain agricultural employers in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: No employer of migratory or seasonal agricultural labor in Delaware may enter into a contract or agreement with an independent farm labor contractor who engages in interstate recruitment of farm labor without first making reasonable efforts to assure that the contractor is duly registered with the U.S. Department of Labor as a farm labor contractor. Presentation to the employer of a DOL registration certificate, valid on its face, is sufficient to satisfy this requirement.

SPECIAL NOTES OR ADVISORIES

REFERENCE TO REPEALED FEDERAL LAW — The Delaware statute requiring employers of migratory or seasonal farm labor to check the federal registration status of any farm labor contractor with whom they propose to do business refers by name to the registration provisions of the Farm Labor Contractor Registration Act and ties compliance to the registration certificate issued by DOL pursuant to that law. FLCRA was repealed by Congress effective April 14, 1983, supplanted, in effect, by the Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S. — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration). Although not tested to date in the courts, the statutory obligation to verify the registration of contractors under MSPA rather than FLCRA, and the validity of a certificate issued under MSPA's authority for that purpose, are presumed enforceable by the Delaware Department of Labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

FARM LABOR CONTRACTOR REGISTRATION LAW

STATUTORY CITATION: Fla. Stat. §§ 450.27-450.39

RELATED REGULATIONS: Fla. Admin. Code R. 61L-1

GENERAL SUMMARY: The Farm Labor Contractor Registration Law controls the business activities of farm labor contractors in Florida, by requiring contractors to register with the state, comply with specified duties and responsibilities, and refrain from certain prohibited acts.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATE OF REGISTRATION — No one, for a fee or other compensation, may recruit, transport into or within the state, supply or hire any farmworker to work for or under the direction of a third party, nor may anyone recruit, transport, supply or hire any farmworker and direct or supervise the worker for a fee or other compensation, until a certificate of registration has been issued by the state permitting the individual to do so and unless the certificate remains in full effect. Unless revoked sooner, a registration certificate is renewable each year on the registrant's birthdate (or the date of incorporation, in the case of a corporate entity acting as a farm labor contractor). The application fee for issuance or renewal of the certificate is currently \$125.

REVOCATION OR SUSPENSION OF CERTIFICATE — The state may revoke, suspend or refuse to renew a certificate of registration when the farm labor contractor has (1) violated or failed to comply with any aspect of the Farm Labor Contractor Registration Law or the rules adopted thereunder, (2) made any misrepresentation or false statement in the application for the certificate, (3) given false or misleading information concerning the terms, conditions or existence of employment to persons recruited or hired to work on a farm, or (4) failed to pay unemployment insurance taxes or federal employment taxes, if required by law.

DUTIES AND RESPONSIBILITIES — Every farm labor contractor in Florida must observe the following requirements, among others:

- Carry the registration certificate at all times and present it to all parties with whom the contractor intends to deal in that capacity.
- (2) Promptly pay or distribute to the individuals entitled thereto all money or other things of value entrusted to the contractor by any third party for that purpose.
- (3) Display at the worksite and on all vehicles used by the contractor to transport workers (a) a copy of the registration certificate, and (b) a statement in English and in the language of the majority of the non-English-speaking employees showing the pay rate the contractor is receiving from the grower for whom the work is being performed and the pay rate the contractor is paying to the workers for their services.
- (4) Secure an insurance policy adequately insuring the contractor against liability for injury or damage arising out of operation or ownership of any vehicle used to transport farmworkers recruited or hired by the contractor.
- (5) Semi-monthly or at the time of each payment of wages, furnish each worker employed by the contractor an itemized written statement showing each and every deduction made from the worker's pay.
- (6) Produce evidence to the enforcement agency that each vehicle used for the transportation of workers (a) complies with the vehicle inspection and maintenance requirements in the Florida Uniform Traffic Laws (see entry, Florida—Transportation—Farmworker Transportation Safety), or (b) bears a valid inspection sticker showing that the vehicle has passed inspection in the state where it is registered.
- (7) On each vehicle used to transport migrant or seasonal farmworkers, display a sticker issued by the state agency, stating that the vehicle is authorized by the agency to transport workers.
- (8) Maintain accurate production and payroll records on each worker, including hours worked, pay rates, units of production, and amounts paid.

GROWER RESPONSIBILITIES — It is unlawful for a farm operator or any other entity to contract with any farm labor contractor for the employment of farmworkers until the contractor presents a current certificate of registration issued by the state.

EXCLUSIONS — The Farm Labor Contractor Registration Law does not apply to farm owners or operators, or to owners or operators of packinghouses or food processing plants who employ workers in planting, cultivating, harvesting or preparing agricultural products for delivery to such packinghouses or food processing plants. The law also exempts from coverage anyone who transports workers solely by means of a carpool.

SPECIAL NOTES OR ADVISORIES

AUTHORIZATION TO ISSUE FEDERAL CERTIFICATES — Under a signed agreement with the U.S. Department of Labor, the Florida Department of Business and Professional Regulation is authorized to receive and process applications for, and to issue, farm labor contractor certificates of registration under the federal Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S.—Labor Contractors & Worker Recruitment—Farm Labor Contractor Registration). The MSPA registration certificates issued by the Florida state agency are entitled to the same recognition in all states as if they had been issued by the U.S. Department of Labor.

RETALIATION — It is illegal for a farm labor contractor to retaliate against anyone who has filed a complaint or aided an investigation under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Farm Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603). This agency is responsible for issuing farm labor contractor registration certificates under the Farm Labor Contractor Registration Law, and for monitoring contractor compliance with the limitations and duties imposed on them by the statute.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

FARM LABOR CONTRACTOR LICENSING LAW

STATUTORY CITATION: Idaho Code §§ 44-1601 - 44-1618

GENERAL SUMMARY: Chapter 16 of the state labor laws regulates the activities of farm labor contractors in Idaho, by requiring that they obtain a state-issued license, prove financial responsibility for payment of claims, and comply with certain duties and restrictions spelled out in the statute.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may act as a farm labor contractor without obtaining a license to do so from the state labor department. As conditions for issuing the license, the applicant must provide information that will enable the department to confirm the person's fitness, competency and qualifications to engage in the farm labor contracting business.

FINANCIAL RESPONSIBILITY — License applicants must obtain a surety bond or equivalent security in the amount of \$10,000 (\$30,000 if they employ more than 20 workers), to cover the contractor's liability to the workers for any unpaid wages or other damages.

DUTIES - Among many other duties imposed on them, farm labor contractors must:

- (1) Carry their contractor license with them at all times.
- (2) Promptly pay their workers and others with whom they do business as a contractor.
- (3) Provide their workers, at the time of recruiting, hiring or dispatching to a worksite, a written statement detailing the wage or piece rate to be paid, the terms and conditions of employment, any housing or other facilities to be provided, and the workers' rights and remedies, including the right to make a claim against the contractor's surety bond.
- (4) Provide the workers with a written pay statement, at the time of each payment, itemizing the total amount of pay, the amount and purpose of each deduction, the hours worked, and the number of units of production if paid on a piecework basis.

RECORDKEEPING — Contractors must make a record, and preserve it for 3 years, of each employee's wages, hours, total earnings, pay deductions, and work locations.

PROHIBITED ACTS — Among other things, it is illegal for a farm labor contractor, or an applicant for a contractor license, to:

- (1) Make false statements or misrepresentations on the license application.
- (2) Make a false, fraudulent or misleading representation to any person, or to circulate or publish false or misleading information concerning the terms, conditions or existence of any employment.
- (3) Use force, intimidation or a threat including a threat of deportation to induce workers to give up any part of the wages to which they are entitled.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for a farm labor contractor to fire or in any other manner discriminate against a worker because the worker made a claim against the contractor, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570)*. This agency is responsible for licensing farm labor contractors under state law, and for investigating violations by or complaints against licensed or unlicensed contractors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may bring a civil suit for injunctive relief, damages or both, using a private attorney or public legal service provider. If it finds in the complainant's favor, the court may award actual damages, plus *three times* the amount of actual damages, or up to \$1,000 per violation, whichever is greater. Civil action must be commenced no later than 2 years after the violation occurred.

Kansas

EMPLOYEE PROTECTION LAWS (CREW CHIEF REGISTRATION)

STATUTORY CITATION: Kan. Stat. §§ 44-125 - 44-129

GENERAL SUMMARY: The state labor laws include explicit provisions for the protection of migrant workers in Kansas, largely regulating the employment-related activities of agricultural crew leaders.

SPECIFIC TERMS AND CONDITIONS

CREW LEADER REGISTRATION — Any person (other than an employer or custom combine operator) who brings any migrant agricultural worker into Kansas, or who is responsible for finding them employment, must register with a local office of the state employment service. Upon registration, the crew leader must furnish the agency with a list of the names and Social Security numbers of all migrant workers the crew leader serves in that capacity and the names of the farm operators for whom worker recruitment services are being performed.

AVAILABILITY OF INFORMATION — Any of the information furnished to the state by a crew leader as described above must be made available to the public upon request.

WAGE PAYMENTS — All farm operators and other agricultural establishments that employ migrant agricultural workers in Kansas must make wage payments directly to each individual worker, and no such payment may be made to a crew leader.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workforce Services Division, Kansas Department of Commerce, Topeka, Kansas 66612 (785-296-3481). Violations of these provisions are treated as a misdemeanor criminal offense, and any crew leader convicted of a violation is barred from doing business in Kansas for a period of 2 years.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (FARM LABOR CONTRACTOR REGISTRATION)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 643-B

GENERAL SUMMARY: Chapter 7, Subchapter 2-A of the state labor statutes contains a provision applicable to farm labor contractors in Maine.

SPECIFIC TERMS AND CONDITIONS: Each farm labor contractor employing migrant and seasonal farmworkers is required to file a copy of its federal registration under the Migrant and Seasonal Agricultural Worker Protection Act to the Maine labor department. The filing must include in-state contact information for the contractor or the contractor's representative.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

● FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 - 7-507

RELATED REGULATIONS: Md. Code Regs. 09.12.45

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, by requiring such persons to obtain a license from the state and by imposing certain responsibilities on contractors and those who use their services. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Except for agricultural employers, agricultural associations and their employees, no person may recruit, solicit, hire, employ, furnish, transport or house migrant agricultural workers in Maryland for compensation unless the person obtains a license to do so from the state. A farm labor contractor must carry the license at all times while engaging in farm labor contracting activities in the state and must exhibit the license to all those with whom the contractor intends to deal in that capacity.

DUTIES AND RESPONSIBILITIES -

Disclosures — Before entering Maryland with migrant agricultural workers for purposes of employment, or before recruiting migrant farmworkers within the state, every farm labor contractor must disclose to each worker in writing (1) the place or places where employment will take place and a description of the crops and crop operations involved, (2) the terms and conditions of employment at each location, including what wage rates will be paid, who will be making payment, and when wages will be paid, (3) the transportation, housing and insurance, if any, to be provided and the costs to be charged for each such service or benefit, and (4) the existence of any known labor dispute at each worksite.

Housing — If a farm labor contractor furnishes any housing for migrant agricultural workers, the contractor must ensure that the terms and conditions of occupancy are posted conspicuously throughout the duration of the stay.

Form of Disclosure — All information required to be provided to the workers by a labor contractor must be given in writing, in English or, as necessary and reasonable, in Spanish or any other language understandable by those workers not fluent or literate in English.

Compliance with Agreements — Unless there is just cause for non-compliance, farm labor contractors must adhere to the terms of all written agreements made with agricultural employers and agricultural associations pertaining to contracting activity or worker protections, and must comply with all agreements made with the workers, including those described above relating to job conditions, transportation and housing.

Vehicles — Farm labor contractors who use vehicles for transporting migrant agricultural workers in Maryland, or who cause vehicles to be used for that purpose, must (1) assure that each such vehicle conforms to applicable federal and state safety standards, (2) ensure that each driver has a valid and appropriate class of license to operate the vehicle, and (3) have the required level of insurance coverage against liability for injury to persons or property arising from the ownership or operation of any such vehicle.

VERIFICATION OF LICENSE — No farm operator or any other person may use the services of a farm labor contractor to supply migrant agricultural workers unless the person first verifies that the contractor is licensed. Furthermore, no one may engage or continue to use the services of a contractor once he or she is notified by the state enforcement agency or otherwise becomes aware that the contractor is not licensed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for issuing farm labor contractor licenses in Maryland and for assuring compliance by contractors and agricultural employers with the terms of this law. The agency has authority to investigate complaints involving farm labor contracting activity and may enter any place of employment, migratory labor camp or other migrant worker housing facility to do so. Farm labor contractors operating without a required license are subject to cease-and-desist action by the agency, and any

Farm labor contractors operating without a required license are subject to cease-and-desist action by the agency, and any violation of the law and the associated regulations may result in assessment of a civil money penalty by the agency. The state attorney general, at the agency's request, is authorized to enforce any such order or penalty. In addition, criminal charges may be brought against any contractor who willfully or repeatedly violates the farm labor contractor provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

STATE AGRICULTURE LAWS (EMIGRANT AGENTS)

STATUTORY CITATION: Mich. Comp. Laws §§ 286.651 - 286.657

GENERAL SUMMARY: Chapter 286 of the state statutes includes provisions requiring the licensing and regulation of emigrant agents, defined as persons engaged in recruiting, hiring, soliciting or enticing laborers in Michigan to work in farm labor outside the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, no one may operate as an emigrant agent without first having obtained an annual license from the state to do so. An application for an emigrant agent's license must be accompanied by a \$75 license fee and a \$2,000 surety bond, payable to the state and conditioned on compliance with provisions applicable to the licensee's operations as an emigrant agent. A licensed agent must carry the license at all times while engaged in labor recruitment activities.

REPORTING — Every licensed emigrant agent is required to submit a report to the state enforcement agency covering each week in which the agent conducts recruitment activity in the state. The report must include (1) identifying information on each worker recruited for employment outside the state, (2) the name and address of the prospective employer of each such worker, (3) the type of work to be performed, (4) the place each worker will be employed, (5) the expected duration of employment, (6) the wages to be paid and benefits to be provided, and (7) a statement as to whether or not transportation is to be arranged for the worker, upon either leaving or returning to Michigan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-1820). The Department is responsible for licensing of emigrant agents operating in Michigan, and for monitoring the business activities of licensees. The law prescribes a penalty only for operation as an emigrant agent without a license, which is defined as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

FARM LABOR CONTRACTORS ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1701 - 48-1714

RELATED REGULATIONS: 227 Neb. Admin. Code, Ch. 1 - 20

GENERAL SUMMARY: The Farm Labor Contractors Act regulates the activities of most individuals, firms and associations that, for a fee or other compensation, recruit, solicit, furnish, hire, employ or transport migrant or seasonal agricultural workers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With the exception of agricultural employers, agricultural associations and their employees, no one may engage in farm labor contracting activities (as described in brief above) without having a valid farm labor contractor's license issued by the state. Any contractor that has a workforce 80 percent or more of whom are 17 years of age or younger may apply to the state agency for a certificate exempting the contractor from these requirements.

BONDING — Before a contractor's license can be issued, the applicant must obtain a surety bond in an amount not less than \$5,000. The bond is conditioned, in part, on full payment of any wage claims filed by workers. Every farm labor contractor covered by the Act must post a notice at each workplace advising the workers of the terms of the bond and showing the name and address of the bonding agent.

DISCLOSURES — At the time of recruitment, hiring or assignment to the job, each worker employed through a licensed farm labor contractor must be given a written statement specifying (1) the rate of compensation to be paid and the method of computing pay, (2) the terms and conditions of any bonus to be paid, (3) the terms and conditions of any housing, health or daycare services to be provided, (4) the approximate duration and estimated start and end dates of employment, (5) the terms and conditions under which the worker will be provided with clothing or equipment, (6) the name and address of the owner of all operations where the worker will be working, and (7) the worker's rights and remedies in plain and simple language.

PAY STATEMENTS — With each payment of wages, workers must receive a written statement showing total earnings, the amount and purpose of each deduction from wages, the number of hours worked, and the amount of production (if paid on a piecework basis).

BILINGUAL ASSISTANCE — A farm labor contractor who has a workforce of 10 or more non-English-speaking workers who speak the same language is required to provide a bilingual employee at the worksite for each shift during which a non-English-speaking worker is employed.

PROHIBITED ACTS — It is illegal for a contractor, or an applicant for a contractor license, to (1) make any false statement or misrepresentation on the license application or in dealing with workers, (2) violate an existing employment contract, (3) assist anyone in the violation of the Act, or (4) use force, intimidation or a threat to induce a worker under the contractor's control or authority to give up any part of the compensation to which the worker is entitled.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). The Department is responsible for the licensing and certification of farm labor contractors in the state and for monitoring their compliance with these provisions. The Department may cancel the license of any contractor found to have violated the terms of the license and may institute criminal proceedings to enforce prescribed penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

FARM LABOR CREW LEADER LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8A-7 - 34:8A-17

GENERAL SUMMARY: Chapter 8A of the New Jersey labor laws regulates the business activities of farm labor crew leaders, in part by requiring such entities to register with the state and by prescribing specific obligations crew leaders must meet as a condition for issuance, maintenance and renewal of the registration certificate.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — No person may recruit, supply or hire farm or food processing laborers, or transport and direct any part of the work of such laborers, for direct or indirect compensation by any farm operator or worker, unless the person has a valid certificate of registration issued by the state. The farm labor crew leader registration requirement does not apply to the owner or operator of a farm or food processing plant who recruits or hires laborers solely for work in his or her own operation.

USE OF CREW LEADERS — It is unlawful for a farm operator to employ or use the services of a crew leader in New Jersey who is not in possession of a valid registration certificate.

CREW LEADER DUTIES — Among other responsibilities imposed by this law, crew leaders are obliged to observe the following duties:

Disclosure — At the time of recruitment, the crew leader must inform each worker regarding the location of employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rates to be paid, and the charges to be assessed the worker for the crew leader's services.

Posting — Crew leaders are required to conspicuously display, and offer a copy thereof to each farmworker or head of a farmworker household under their supervision, a notice in Spanish and English summarizing the disclosure information mentioned above, as well as the name and address of the crew leader, the name and address of the farm operator where the work is to be performed, the anticipated duration of the job, and a schedule of the minimum pay for each hour of employment.

Payment — Whenever a crew leader is party to the disbursement of wages, he or she must pay all compensation due any migrant or seasonal farmworker on the same premises where the work was performed, and immediately upon termination of the period of employment.

Payroll Recordkeeping — Every crew leader who is involved in the disbursement of wages to any migrant or seasonal farmworker must keep a record of the place of work, gross pay, deductions, and the name and address of the worker. For each worker employed on a time basis, the record must include the number of hours worked daily and weekly and the wage rate per hour; for workers paid on a piece-rate basis, the crew leader must record the number of units of work performed, the wage rate per unit, and the total hours worked daily and weekly.

AUTHORIZATION TO TRANSPORT — A registration certificate cannot be issued to any applicant transporting migrant or seasonal farmworkers unless the applicant furnishes satisfactory proof of compliance with state motor vehicle regulatory requirements applicable to such transportation. If, however, the applicant affirms in writing the intention not to transport any such workers, a registration certificate bearing the words "Not Authorized To Transport" may be granted, at the discretion of the enforcement agency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A crew leader may not discharge, discipline or discriminate in any manner against a migrant or seasonal farmworker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded under state or federal law. The anti-retaliation protection is enforceable through private civil action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004). The Department is charged with issuing farm labor crew leader registration certificates to eligible applicants and is authorized to investigate any complaint regarding a violation of the crew leader law. In connection with any such investigation, the Department may subpoen a witnesses and documentary evidence. The statute expressly directs the Department to annually conduct random fact-finding compliance interviews with farmworkers employed by or under the supervision of a crew leader, and to perform inspections of crew leader records. In addition to the revocation or suspension of the registration certificate, a crew leader or anyone else who violates any provision of the law or its associated regulations is liable to both criminal prosecution and civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any seasonal farmworker aggrieved by an apparent violation of these provisions may take civil court action against the crew leader, using a private attorney or public legal service provider.

New York

MIGRANT REGISTRATION LAW

STATUTORY CITATION: N.Y. Labor Law § 212-A

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 197

GENERAL SUMMARY: The Migrant Registration Law regulates the recruitment and employment of farmworkers and food processing workers in New York, by imposing certain duties on farm labor contractors and on operators of farms and food processing plants.

SPECIFIC TERMS AND CONDITIONS

FARM LABOR CONTRACTORS — In general, any person who (1) for a fee, recruits, transports, supplies or hires farm or food processing workers for a third party, or (2) recruits, transports, supplies or hires such workers and, for a fee, directs, supervises or controls their work, is subject to the following requirements:

Registration — No one may act as a farm labor contractor, as defined in brief above, without a valid certificate of registration issued by the state. On the registration application, the contractor must provide information on wages, working conditions, housing and other aspects of the agricultural services to be performed, and the application must be countersigned by each grower or food processor who utilizes those services.

Disclosure to Workers — A registered labor contractor is required to give a copy of the registration application, or a summary of the employment specifications included in the application, to each worker recruited or employed. This must be done no later than the worker's time of arrival in New York or, if the worker is not from out of state, no later than the time the job begins. A copy must also be kept posted at any camp in which the workers are housed.

Payroll Records — For each worker employed or supervised, contractors must keep a record of wage rates, wages earned, hours worked, units of production (for pieceworkers), deductions from earnings, and net pay.

Wage Statements — Each worker employed, supervised or paid by a farm labor contractor is entitled to receive a written statement from the contractor with every payment of wages, showing the employer's name and address, the worker's name, the wage rate, the wages earned, the number of hours worked, units of production, all deductions fully itemized and explained, and net pay.

GROWERS AND PROCESSORS — The owner or lessee of any farm or food processing plant in New York is prohibited from utilizing the services of a farm labor contractor unless the grower or processor has a certificate for that purpose issued by the state and the contractor is registered as described above. If the labor contractor fails to comply with the disclosure, recordkeeping, and wage statement requirements applicable to such operations, the state enforcement agency will notify the grower or processor, who will then be responsible for compliance. Furthermore, a farm operator or food processor may use the services of a farm labor contractor for not more than 5 days, and must countersign the contractor's registration application and forward it to the state agency within 24 hours after utilization of such services begins.

Any grower or processor who, without assistance from a farm labor contractor, brings 5 or more migrant farmworkers or food processing workers into New York must register with the state and comply with essentially the same disclosure, recordkeeping, and wage statement provisions applicable to registered labor contractors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Through its district offices, the Department is responsible for the registration of farm labor contractors, growers and food processors subject to the Migrant Registration Law, and for monitoring compliance with the statute's procedural requirements. If the Department finds that a contractor, grower or food processor has failed to comply with any applicable provision, has made a false statement in the registration application, or has given false or misleading employment information to a worker recruited or hired, the agency may revoke, suspend or refuse to issue or renew the party's certificate.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

LABOR CONTRACTOR LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 658.405 - 658.511

RELATED REGULATIONS: Or. Admin. R. 839-015-0000 - 839-015-0610

GENERAL SUMMARY: Chapter 658 of the state statutes contains provisions regulating the operations of farm and construction labor contractors in Oregon, in part by requiring them to obtain a license from the state, imposing certain duties on and prohibiting certain conduct by persons acting as labor contractors, and making parties who utilize the services of an unlicensed contractor legally liable for the contractor's misconduct.

PROVISIONS APPLICABLE TO AGRICULTURE

LICENSING — It is unlawful for anyone, for a fee, (1) to recruit, solicit, supply or employ workers to perform labor for another in the production or harvesting of farm products, or (2) to engage in such activities on behalf of a farm employer, or (3) to furnish board or lodging as an adjunct to recruitment or employment of farmworkers, without possessing a valid license from the state to do so.

INSURANCE AND BONDING — Among other prerequisites for receipt of a license, the applicant must (1) submit proof of adequate insurance for any vehicles to be used to transport workers, (2) submit proof of workers' compensation insurance, and (3) provide a surety bond or equivalent security of up to \$30,000 evidencing financial ability to promptly pay workers' wages and other specified obligations. The contractor must thereafter post a notice on the premises where employees working under the contractor are employed, specifying the name and address of the bonding company or the agency holding the equivalent security.

DUTIES — Among other responsibilities, each person acting as a farm labor contractor must:

- Carry the contractor's license at all times when acting in that capacity.
- (2) Pay or distribute promptly to the individuals entitled thereto all money or other things of value entrusted to the contractor by anyone for that purpose.
- (3) At the time of recruitment or hiring, furnish to each worker a written statement, in English and any other language used by the contractor to communicate with the workers, describing (a) the method for computing compensation, (b) the terms and conditions of any bonus offered, (c) the terms of any loans made to the worker, (d) the conditions on any housing, health or daycare services to be provided, (e) the terms and conditions of employment, including the approximate start and end dates, (f) the terms of any clothing or equipment to be furnished to the worker, (g) the name and address of the owner of all operations where the worker will be working, (h) the existence of any labor dispute at the worksite, and (i) the worker's employment rights and remedies under state and federal law.
- (4) Each time the contractor makes a payment of wages, furnish each worker with a written statement itemizing total wages, the amount and purpose of each deduction from wages, and the hours worked (or piecework production) and rate of pay.
- (5) Immediately notify the U.S. Postal Service and the state enforcement agency whenever there is a change in the contractor's permanent address.

PROHIBITED ACTIVITIES — Among other unlawful acts, no one acting as a farm labor contractor may willfully make any false, fraudulent or misleading statement to any person, or circulate any false information concerning employment. It is also illegal for a farm labor contractor to use force, intimidation, or threats of dismissal or deportation to induce a worker to give up any part of the compensation to which the worker is entitled.

USE OF CONTRACTOR'S SERVICES — A farm operator or anyone else who uses the services of an unlicensed labor contractor is personally, jointly and severally liable with the contractor for any damages awarded to a worker who prevails in a civil suit against the contractor for non-compliance or retaliation.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A farm labor contractor may not discharge or discriminate in any other manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463). The Bureau is responsible for enforcing compliance with the duties and restrictions imposed on contractors by the labor contractor law. Any worker who has evidence of a violation may submit a complaint to the Bureau, which may suspend, revoke or refuse to renew the license of the contractor if the ensuing investigation supports the allegations. The Bureau also has authority to impose a civil money penalty of up to \$2,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After filing a complaint with the Bureau, a worker has a right to civil action against a contractor for most violations directly affecting the worker, but any such suit must be filed no later than 2 years after the date of the infraction. For each violation, the worker is entitled to recover actual damages or \$1,000, whichever is greater, plus court costs and attorney's fees.

Pennsylvania

■ SEASONAL FARM LABOR ACT (FARM LABOR CONTRACTOR REGISTRATION)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.501 - 1301.506

RELATED REGULATIONS: 34 Pa. Code §§ 31.51 – 31.58

GENERAL SUMMARY: The Seasonal Farm Labor Act includes provisions regulating the operation of farm labor contractors in Pennsylvania, by requiring that contractors register each year with the state and observe certain limitations on their business activities. In brief, the Act defines a farm labor contractor as any person who, for compensation, recruits, solicits, hires, furnishes or transports 5 or more seasonal farmworkers in any calendar year for employment in agriculture or in an agriculture-related industry.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — No one may act as a farm labor contractor unless he or she possesses or has applied for a certificate of registration from the state. Similarly, individuals who are employed by and act as agents of a registered farm labor contractor must carry identification indicating their status as contractor agents and are subject to the Act and its associated regulations to the same extent as if they were registered contractors.

RECORDKEEPING — Every farm labor contractor must make and preserve prescribed payroll records on each worker recruited, employed or supervised, including such data as the worker's name and Social Security number, total wages earned, the number of hours worked, and hourly or piecework wage rates.

PROHIBITED ACTIVITIES — Among other prohibitions enumerated in the Act, it is forbidden for anyone engaged in activities as a farm labor contractor:

- (1) To knowingly give a seasonal farmworker or prospective farmworker any false or misleading information, or fail to fully disclose pertinent information, concerning the availability of work, wages, any arrangements for the furnishing of meals, housing and transportation, or other terms of employment, in order to induce the worker to accept or reject a job offer.
- (2) To receive, disburse or withhold any wages or other compensation for the services of a worker except in conformity with the Act's wage payment provisions (see entry, Pennsylvania — Wages & Hours — Wage Payment and Collection).
- (3) To charge or collect from a worker any money or other thing of value for goods or services provided by the contractor, except (a) a reasonable charge for transportation of the worker, the worker's family and their possessions between the place of residence or recruitment and a job site, or from one job site to another, and (b) a reasonable charge for meals during the term of employment or during travel periods.
- (4) To fail to correctly disclose to the worker, at the time of recruitment or negotiation of any contract, the reasonable charges for transportation and meals.
- (5) To sell or dispense any alcoholic beverage without a state license or permit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). In addition to administering the farm labor contractor registration process, the Department is responsible for monitoring contractors' compliance with the restrictions imposed on their conduct. In response to a complaint or other evidence of a violation of the Act, the Department may enter public or private property, inspect records, question any person, and take other investigatory action necessary to determine if a violation has, in fact, occurred. Contractors who fail to comply with any provision of the Act or the associated rules may have their registration certificate suspended or revoked and are also subject to criminal action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

FARM LABOR CONTRACTOR LAW

STATUTORY CITATION: Wash. Rev. Code §§ 19.30.010 - 19.30.902

RELATED REGULATIONS: Wash, Admin, Code Ch. 296,310

GENERAL SUMMARY: Chapter 19.30 of the Washington statutes regulates the business activities of farm labor contractors, defined as any individual, firm, association or other entity that, for a fee, recruits, solicits, employs, supplies, transports or hires agricultural workers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, no one may act as a farm labor contractor in Washington until a license authorizing such activity has been issued to the applicant by the state. The licensee must have the license in possession at all times while engaged in contracting services.

BONDING AND INSURANCE — Among other prerequisites, the state licensing agency may not issue a license unless the applicant (1) posts a surety bond or equivalent security to ensure compliance with the farm labor contractor law, and (2) obtains and maintains a liability insurance policy covering potential damage to persons and property arising from the contractor's business activities and ownership or operation of any vehicles used to transport farmworkers.

DISCLOSURES TO WORKERS — At the time of hiring, recruiting, soliciting or supplying any worker (whichever occurs first), a farm labor contractor is obligated to furnish the worker with a written statement containing all of the following information:

- (1) The rate of compensation to be paid and the method for computing earnings.
- (2) The terms and conditions of any bonus to be paid.
- (3) The terms and conditions of any loan made to the worker.
- (4) The conditions and costs of any transportation, housing, board, health or daycare services, or other employee benefits to be provided by the contractor.
- (5) The anticipated duration of employment, the approximate start and end dates, and the crops and crop operations involved.
- (6) The terms and conditions under which the worker will be furnished clothing or equipment.
- (7) The location or locations of the job.
- (8) The name and address of the owner of all operations where the worker will be working.
- (9) The existence of any labor dispute at the worksite.
- (10) The name and address of the farm labor contractor.
- (11) The existence of any arrangement with any store or other establishment at the place of employment under which the contractor is to receive a fee or other benefit from any sales by such establishment to the workers.
- (12) The name and address of the surety on the contractor's bond, and a statement explaining the worker's right to claim against the bond.

This disclosure must be in English and in any other language understood by the worker if the worker is not fluent or literate in English.

PAY STATEMENTS — Each time a worker is paid by or through a farm labor contractor, the contractor must provide the worker with a written statement itemizing the worker's total earnings, the amount and purpose of each deduction from pay, the number of hours worked, the rate of pay, and the number of units of production if work was done on a piece-rate basis.

RECORDKEEPING — With respect to each worker recruited, solicited, employed, supplied or hired, every farm labor contractor is required to keep a record for each pay period showing the basis on which wages are paid, the number of piecework units produced (if applicable), the number of hours worked, the total earnings, the specific sums withheld from wages and the purpose of each such deduction, and the amount of net pay. A copy of the record must be given to each farm operator or other user of the worker's labor, who in turn is required to preserve the record for no less than 3 years after the end of the period of employment.

PROHIBITED ACTS — It is illegal for anyone acting as a farm labor contractor to engage in any of the following practices:

- (1) To make a misrepresentation or false statement in an application for a license.
- (2) To give false or misleading information concerning the availability, terms or conditions of any employment.
- (3) To send or transport a worker to any job site where the contractor knows a strike or lockout is in progress.
- (4) To commit any act which constitutes a crime of moral turpitude under state law.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

LIABILITY FOR USE OF AN UNLICENSED CONTRACTOR — A farm operator or other establishment that knowingly uses the services of an unlicensed farm labor contractor is personally, jointly and severally liable with the person acting as a contractor for any damages arising from the contractor's operation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department is responsible for licensing farm labor contractors in the state, and for monitoring their compliance with the farm labor contractor law. Not only may the Department revoke, suspend or refuse to renew the license of a contractor who engages in prohibited activities, or fails or refuses to observe the duties imposed on contractors under the law, but the Department is authorized to assess a civil money penalty of up to \$1,000 for each such infraction. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — After filing notice of a claim with the Department, anyone aggrieved by a violation of these provisions may bring suit against the contractor to recover actual losses, plus punitive damages and other relief, provided the suit is filed within 3 years after the violation occurred. A worker with a claim against a contractor may also bring suit against the contractor's surety bond, within 3 years after the date of expiration or cancellation of the bond, or the date of expiration or cancellation of the contractor's license, whichever is sooner.

Wisconsin

■ MIGRANT LABOR LAW (MIGRANT LABOR CONTRACTORS)

STATUTORY CITATION: Wis. Stat. §§ 103.90 - 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.05

GENERAL SUMMARY: Among its other provisions, Wisconsin's migrant labor law regulates the activities of migrant labor contractors, generally defined as anyone (other than an employer doing so on his or her own behalf) who, for a fee or other consideration, recruits, solicits, hires or furnishes migrant workers (other than members of the contractor's immediate family) for employment in Wisconsin. In brief, the term "migrant worker" means anyone who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — It is illegal for anyone to operate as a migrant labor contractor without first obtaining a registration certificate from the state. Registered labor contractors must carry their certificate at all times while performing contracting activities, and must show the certificate to all parties with whom they intend to deal in that capacity. Likewise, agents employed by registered contractors to assist them in contracting work must carry identification indicating their status as agents of a registrant.

DUTIES — Among other responsibilities, every migrant labor contractor and every contractor's agent is required (1) to file an official change of address within 10 days after each such change, (2) to promptly pay or deliver to the persons entitled thereto all money or things of value entrusted to the contractor by third parties, (3) to comply with all contracts or agreements entered into, and (4) to keep and preserve prescribed records.

PROHIBITED ACTIVITIES — Migrant labor contractors and their agents are forbidden from (1) knowingly giving a worker any false or misleading information, or failing to fully disclose any information, concerning the terms, conditions or existence of employment, (2) receiving, disbursing or withholding a worker's wages, except to distribute a check payable to the worker, (3) charging or collecting from a worker any sum for goods or services furnished to the worker, when such sum exceeds the actual cost of providing the goods or services, or (4) violating the migrant labor law's recruitment and contract provisions (see next entry).

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). This agency is responsible for issuing migrant contractor registration certificates and for assuring registrants' compliance with the migrant labor law and the associated rules and regulations. Violation of these provisions, or any material misrepresentation or false statement in a registration application, is grounds for suspension or revocation of a migrant labor contractor's certificate, as well as assessment of a money penalty.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

U.S.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, as amended in 1986, authorizes the importation of non-immigrant foreign workers into the United States to perform temporary or seasonal agricultural labor, under conditions prescribed in Section 216 of the Act.

SPECIFIC TERMS AND CONDITIONS

INITIAL RECRUITMENT OF DOMESTIC WORKERS — No sooner than 75 days and no later than 60 calendar days before the first date on which a temporary or seasonal agricultural operation is expected to begin, a grower or growers' association that anticipates a shortage of U.S. workers and wishes to apply for temporary foreign labor under the so-called "H-2A" program must submit a formal job offer to the U.S. Department of Labor and the state employment service, and begin affirmative efforts to locate U.S. workers for the jobs described in the offer. Until such time as the need for foreign workers is certified and H-2A workers have departed for the place of employment, active recruitment of domestic labor must continue, including the placement of advertisements in general-circulation newspapers, and in a language other than English if deemed appropriate by the employment service.

EXTENDED RECRUITMENT OF DOMESTIC WORKERS — From the time H-2A workers depart for the place of employment until 50 percent of the specified employment period has elapsed, the employer must hire any qualified U.S. worker who applies for any of the positions for which the H-2A workers were approved. Moreover, no U.S. worker may be rejected for or terminated from such employment for other than a lawful job-related reason, and the employer must report every rejection and termination to the local employment office. The "50 percent rule" does not, however, apply to any farm operator or other H-2A employer who did not use more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year and who is not associated with other employers applying for or utilizing H-2A workers.

CONTENTS OF JOB OFFER — Among other elements, an H-2A job offer must contain certain minimum standards and guarantees, summarized in brief below, all of which must be incorporated into a written work contract and furnished to each worker no later than the first day of employment. Both the job offer and the contract must afford U.S. workers the same benefits, wages and working conditions as their H-2A counterparts.

Pay Rates — For every hour on the job in any pay period, each worker is entitled to receive no less than (1) the federal minimum wage, (2) the state minimum wage, (3) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, or (4) the prevailing wage rate, whichever of the four figures is highest.

Guaranteed Paid Workdays — In general, each U.S. and H-2A worker employed in comparable jobs by an H-2A employer is guaranteed employment for at least 3/4 of the workdays in all periods during which the work contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay the worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays.

Wage Payments, Deductions, and Statements — Employers who utilize temporary foreign agricultural workers must pay both their foreign and U.S. workers at least twice a month, or more often if such is the prevailing practice in the area of employment. Employers are generally permitted to withhold from a worker's pay only those deductions that are required by law or are otherwise reasonable, provided the non-mandatory deductions are spelled out in the contract. On or before each payday, the employer must provide each worker with written documentation showing (1) the worker's total earnings for the pay period, (2) the hourly wage or piece rate, (3) the hours of employment offered to the worker and the hours actually worked, (4) each deduction from the worker's pay and its purpose, and (5) the worker's daily piecework production if paid on a piecework basis.

Workers' Compensation — At no cost to the worker, each H-2A employer is obligated to obtain workers' compensation or equivalent insurance to cover medical expenses and related benefits in the event of a worker's injury on the job or occupational disease.

Transportation — Each foreign or domestic worker who completes 50 percent of the work contract period is entitled to reimbursement for costs incurred by the worker for transportation and meals between the place from which the worker has come to work for the employer and the place of employment; transportation and meal costs must be advanced to the worker prior to the trip whenever it is common practice for non-users of foreign labor in the same occupation and the same area to do so. Likewise, if the worker completes the contract period, the employer is obligated to provide or pay for the worker's transportation and daily subsistence back to the place of origin or to the next place of employment. During the course of the contract, the employer must furnish transportation between the worker's living quarters and the worksite, without cost, if the worker is unable to return to his or her own home within the same day.

Housing — To those workers who are not reasonably able to return to their residence each day, the employer must provide housing without cost to the worker. Housing facilities owned or operated by the employer must meet applicable ETA or OSHA standards, while rental units or public housing must generally comply with applicable local, state or federal standards. When it is prevailing local practice to provide domestic farmworkers with family-type housing, family housing must be provided to those U.S. workers employed under an H-2A work contract who request it for themselves and their families.

Meals — An H-2A employer must either serve the workers three meals a day or furnish free and convenient cooking facilities to enable the workers to prepare their own meals. The cost of employer-provided meals may be assessed against the workers, but meal charges may generally not exceed the limit prescribed by regulation (currently \$10.64 per day).

Supplies and Equipment — Unless it is common practice in the particular locality and crop operation for workers to provide their own, the employer must furnish all supplies, tools and other equipment required to perform the assigned tasks, without any charge or deposit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is responsible for enforcing compliance with the required work contracts between certified H-2A employers and their foreign and domestic employees performing services under those agreements. When investigation discloses evidence of a violation, the Division may impose penalties, seek injunctive relief, and order specific performance of contractual obligations, including recovery of unpaid wages. Each violation of the work contract committed against a worker carries a maximum civil fine of \$1.500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). OFLC is responsible for processing applications by agricultural employers seeking temporary foreign workers, and for certifying the number of such workers needed, if any. It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certification and during the first half of the contract period, that the associated job offers comply with statutory and regulatory requirements, and that employers refain from using the H-2A program to replace farmworkers who are on strike or otherwise involved in a labor dispute. Non-compliance with pre-certification recruitment requirements may result in delay or denial of the H-2A application, and an employer's failure to abide by the terms and conditions of certification may lead to denial of all subsequent petitions for foreign agricultural labor for a period of up to 3 years.

Colorado

STATE LABOR RELATIONS LAWS

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-2-104 and 8-2-107

GENERAL SUMMARY: The state laws governing labor relations make it illegal for anyone to bring workers into Colorado for the purpose of employment, or to induce or persuade workers to change from one place of employment to another within the state, by means of false or deceptive representations, false advertising or false pretenses concerning the kind of work to be done, the amount or nature of compensation to be paid, the sanitary or other conditions of employment, or the existence or non-existence of a strike or lockout. Any worker who has been subjected to or victimized by such treatment or actions is entitled to recover all damages sustained as a consequence, in addition to court costs and attorney's fees.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply without distinction between agricultural and non-agricultural workers or employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Through a private attorney or public legal service provider, a worker who has suffered damages as a result of a violation of these provisions may file suit in civil court against the party responsible.

Illinois

PUBLIC EMPLOYMENT OFFICE ACT

STATUTORY CITATION: 20 Ill. Comp. Stat. §§ 1015/0.01 - 1015/15

GENERAL SUMMARY: The Public Employment Office Act establishes a system of free public employment offices in Illinois, and among other provisions prescribes practices for the fair, effective matching of job applicants with available job openings. The public employment office law includes explicit restrictions on Illinois employers recruiting migrant agricultural workers.

SPECIFIC TERMS AND CONDITIONS

STATEMENT OF EMPLOYMENT CONDITIONS — No employer in Illinois may utilize the state employment service to recruit migrant farmworkers unless the employer files a statement with the state agency disclosing the terms and conditions of the employment and the existence of any strike or other concerted labor action by the employer's workers at the proposed job site. A copy of the statement, in English and any other language in which the worker is fluent, must be given to each farmworker by the employer prior to recruitment, and must also be posted by the employer in a conspicuous location at the worker's job site or place of residence.

SUMMARY OF EMPLOYMENT LAWS — Each migrant farmworker recruited for employment must be furnished with a written summary of all state laws relevant to the worker's employment, including, at a minimum, the provisions regarding wage payments, wage assignments, wage deduction orders, and migrant labor camps. The summary must be in English and any other language in which the worker is fluent.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Illinois Department of Employment Security, Springfield, Illinois 62702 (773-412-8427). The Department operates the state's system of free public employment offices, and in that role must assure that job orders from employers seeking qualified workers comply with state and federal labor standards. After notice and opportunity for a hearing, an employer who fails or neglects to furnish the statements required under these provisions may be denied future use of the public employment service. In addition, the Department is obligated to notify the state attorney general of all violations of these provisions for possible criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

STATE LABOR LAWS (WORK AWAY FROM HOME LOCALITY)

STATUTORY CITATION: Mich. Comp. Laws §§ 480.581 - 480.583

GENERAL SUMMARY: Any person or firm that recruits a worker to perform services away from the worker's home location, through promise of wages or other valuable consideration, must provide the worker with a written statement specifying the terms and conditions of the job, the wage rates to be paid, and how, when and where such wages will be paid. In offering inducements to a worker for employment away from home, anyone who misrepresents any of these conditions is liable to the affected worker for the full amount of the damages suffered.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to employment in any industry and any occupation in the state, implicitly including agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - These provisions are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Through private legal counsel or a public legal service provider, a worker may recover damages resulting from a violation of these provisions by filing a civil suit against the offending party.

Minnesota

STATE LABOR LAWS (MIGRANT LABOR RECRUITMENT)

STATUTORY CITATION: Minn. Stat. §§ 181.85 - 181.91

GENERAL SUMMARY: The state labor statutes include provisions regulating the recruitment of out-of-state migrant workers for seasonal agricultural labor in Minnesota.

SPECIFIC TERMS AND CONDITIONS

Every processor of fruits and vegetables in Minnesota that employs, either directly or indirectly through a recruiter, more than 30 migrant workers per day, for more than 7 days in a calendar year, must comply with the disclosure provisions summarized in the next paragraph. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

At the time of recruitment, the employer is required to provide each such worker with a written employment statement plainly specifying, in English and Spanish, all of the following:

- (1) The date on which and the place at which the statement was provided to the worker.
- (2) The names and permanent addresses of the worker, employer and recruiter.
- (3) The expected date of the worker's arrival at the job site, the anticipated date the job will begin, the approximate hours of employment, and the minimum period of employment.
- (4) The crops and crop operations in which the worker will be employed.
- (5) The wage rates to be paid.
- (6) The terms of payment.
- (7) Any wage deductions to be made.
- (8) Whether or not housing will be provided.

The required employment statement is deemed an enforceable contract between the worker and the employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$500, plus court costs and attorney's fees.

● STATE LABOR LAWS (FALSE STATEMENTS IN RECRUITMENT)

STATUTORY CITATION: Minn. Stat. §§ 181.64 - 181.65

GENERAL SUMMARY: It is illegal for a person or firm doing business in Minnesota to recruit or induce a worker to relocate from some other place in order to work in any form of labor in Minnesota, (1) by means of knowingly false representations concerning the type of work, wages, or sanitary conditions, or (2) by failing to advise the worker of a strike or lockout at the place of proposed employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against misrepresentation in recruitment applies to agricultural employment the same as any other classification of labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who is recruited or induced to change his or her place of employment, as described above, has a right to sue for recovery of damages sustained as a consequence of any misrepresentation, false advertising or false pretenses. In addition to actual damages, the worker is entitled to reasonable attorney's fees.

Montana

STATE LABOR LAWS (DECEPTION IN RECRUITMENT)

STATUTORY CITATION: Mont. Code § 39-2-303

GENERAL SUMMARY: Chapter 2, Part 3 of the state labor laws includes a provision limiting certain forms of recruitment activity, affecting both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS: It is illegal for anyone doing business in Montana to induce or persuade workers to change from one place of employment to another within the state through deception, misrepresentation or false advertising concerning the kind of work available, the sanitary conditions on the job, other terms of employment, or the existence of a strike or similar labor dispute at the job site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has relocated within the state on the basis of false or deceptive job recruitment practices contrary to this provision is entitled to recovery of damages sustained as a consequence, in a private suit utilizing legal counsel of the worker's own choice. A judgment in the worker's favor may include payment of reasonable attorney's fees.

Nevada

MISCELLANEOUS EMPLOYMENT LAWS (MISREPRESENTATION IN RECRUITMENT)

STATUTORY CITATION: Nev. Rev. Stat. § 613.010

GENERAL SUMMARY: Chapter 613 of the state statutes regulates employment practices in Nevada, and includes a provision restricting certain forms of job recruitment. This provision generally applies equally to all occupations and industries in the state.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for anyone doing business in Nevada to induce or persuade workers to move from one place of employment to another, or to bring workers into the state for employment of any kind, by means of misrepresentation, false advertising or false pretenses concerning the type of work to be done, the amount or kind of compensation to be paid, the sanitary facilities or other job conditions, or the existence or non-existence of a strike or other labor dispute at the job site.

Violation of this provision is classed as a gross misdemeanor and may be prosecuted in criminal court. Likewise, any worker recruited in such a fashion is entitled to recover all damages sustained as a consequence, in a civil action against the party or parties responsible.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None. PRIVATE CIVIL ACTION — A worker who has suffered damages as a result of an apparent violation of this provision should consult a private attorney or public legal service provider concerning possible civil action against the offending party.

Oklahoma

MISCELLANEOUS LABOR LAWS (MISREPRESENTATION IN RECRUITMENT)

STATUTORY CITATION: Okla. Stat. Title 40, §§ 167 - 170

GENERAL SUMMARY: It is illegal for an employer doing business in Oklahoma to bring workers of any sort into Oklahoma for employment, or to induce or persuade workers to move from one place to another within the state, through false pretenses, false advertising, or deception regarding the character of the work to be performed, the amount of compensation to be paid, the sanitary conditions on the job, the existence or non-existence of a strike or other labor dispute pending at the job site, or other conditions of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies without regard to the nature of the offered employment or the occupation of the workers involved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department has authority to refer complaints charging violation of this provision to local district attorneys for criminal prosecution. Employers found guilty are subject to a fine ranging from \$500 to \$2,000, confinement for one month to one year in jail, or both a fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is influenced to relocate on the basis of a misrepresentation concerning employment has a right to sue the responsible parties for recovery of any damages sustained as a consequence. In addition to actual damages, the worker is entitled to reasonable attorney's fees if the court rules in the worker's favor.

Oregon

MISCELLANEOUS LABOR LAWS (MISREPRESENTATION IN RECRUITMENT)

STATUTORY CITATION: Or. Rev. Stat. §§ 659.815 - 659.820

GENERAL SUMMARY: No person, firm or other entity which employs labor may bring workers into Oregon for employment, or induce or persuade workers to change from one place of employment to another within the state, by misrepresentation or on any false pretense concerning the amount of compensation to be paid or the existence or non-existence of a strike, lockout or other pending labor dispute. Neglecting to state in an advertisement or proposal for employment that there is a strike, lockout or unsettled labor problem at the prospective workplace when such a condition actually exists is also illegal.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to recruitment for employment of any kind, agricultural or non-agricultural.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is influenced through deception or misrepresentation to change places of employment, or is otherwise recruited in violation of these provisions, may sue the responsible party for recovery of actual damages sustained as a consequence, or \$500, whichever is greater, plus reasonable attorney's fees and court costs.

Puerto Rico

PUBLIC LAW 87

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 526 - 534

GENERAL SUMMARY: Chapter 31 of the Puerto Rico labor statutes contains provisions regulating the recruitment of workers in Puerto Rico for employment of any sort outside the Commonwealth.

SPECIFIC TERMS AND CONDITIONS

AUTHORIZATION TO RECRUIT AND TRANSPORT — It is unlawful for any person, any organization, or the agent of a person or organization, to recruit or transport laborers for employment outside Puerto Rico without authorization by the labor secretary.

NOTIFICATION — Every person, organization or agent intending to recruit laborers in Puerto Rico for contract employment abroad must first provide the labor secretary with advance notification concerning the recruitment effort and the prospective employment, including the number of workers to be contracted for, the mode of transportation to be used to get the workers to the job site, the name and address of the employer, the kind of work to be performed, the wages and other compensation to be paid, the minimum guaranteed working hours, and other job conditions and benefits.

WRITTEN CONTRACTS — Anyone who undertakes to recruit workers as described above is required to execute a written contract with each such worker. The contract must contain certain minimum guarantees prescribed by the enforcement agency, and once the contract is approved, the agency is obligated to protect the worker's rights as spelled out in that document.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180). The Department is responsible for reviewing the terms of proposed labor recruitment and contracting activities, monitoring those activities as they take place, and enforcing the rights of the workers employed under the resulting contracts, wherever the labor is actually performed. The Department is authorized to institute necessary legal proceedings to enforce compliance. In addition to criminal penalties, persons who violate these provisions are civilly liable for double the amount of damages caused to any worker or job applicant for breach of contract.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

GENERAL LABOR LAWS (HIRING PRACTICES)

STATUTORY CITATION: Tenn. Code § 50-1-102

GENERAL SUMMARY: Chapter 1, Part 1 of the state labor statutes contains a ban on certain recruitment practices relevant and implicitly applicable to agricultural employment.

SPECIFIC TERMS AND CONDITIONS: It is illegal for anyone to induce or persuade a worker to move from one place to another within the state, or to bring workers of any kind into Tennessee for any sort of employment, by means of misrepresentation, false pretenses, or false advertising concerning the nature of the work to be done, the amount of compensation to be paid, the sanitary conditions on the job, the existence or non-existence of a strike at the worksite, or other conditions of employment. For purposes of this provision, failure to state in any job advertisement, proposal or contract that there is a strike, lockout or similar labor dispute at the place of proposed employment, when in fact such a dispute actually exists there, is deemed misrepresentation and false advertising.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced in the criminal courts by public prosecuting attorneys. A violation is punishable by a fine of not less than \$500, confinement for up to 6 months, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who is influenced, induced or persuaded through misrepresentation or on false pretenses to relocate for purposes related to employment has a right to sue the offending party for all damages that the worker has sustained as a result. In addition to actual damages, the worker is entitled to recover reasonable attorney's fees.

Washington

SEASONAL LABOR LAW

STATUTORY CITATION: Wash. Rev. Code §§ 49.40.010 - 49.40.080

GENERAL SUMMARY: Chapter 49.40 of the state statutes provides certain protections for workers recruited in Washington to perform out-of-state seasonal labor, defined as employment for more than one month where wages are not paid at regular intervals, but rather upon termination of the job and return to Washington. Such seasonal employment arrangements implicitly include seasonal agricultural work.

SPECIFIC TERMS AND CONDITIONS

WRITTEN CONTRACTS — Every contract for seasonal labor, as defined in brief above, must be in writing and must be signed by the employer and the employee.

ADVANCES — A contract for seasonal labor may provide for payment of cash advances or the furnishing of supplies to the worker before wages are earned, and for the payment of money or furnishing of supplies during the season.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). At the request of a worker or employer, the Department is authorized to investigate any dispute concerning wages earned in seasonal labor. The Department may allow or reject deductions made from the worker's earnings for money advanced or supplies furnished before or during the season, or for money paid to third parties upon the worker's written authorization.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

MIGRANT LABOR LAW (MIGRANT WORK AGREEMENTS)

STATUTORY CITATION: Wis. Stat. §§ 103.90 - 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.06

GENERAL SUMMARY: Wisconsin's migrant labor law requires agricultural employers, labor contractors, and other entities that hire or recruit migrant agricultural workers for employment in the state, to provide the workers with certain pre-employment disclosures and with a written work agreement at the time of hiring.

SPECIFIC TERMS AND CONDITIONS

PRE-EMPLOYMENT DISCLOSURE — At the time of recruitment of any out-of-state migrant worker for temporary seasonal agricultural employment in Wisconsin, the employer or contractor involved must provide the worker with a written disclosure of the terms and conditions of employment, identical in content to the required work agreement described below. The disclosure must be in English, and in the worker's customary language if other than English.

WRITTEN WORK AGREEMENT — At the time of hiring, the employer or contractor must provide each migrant worker recruited or hired with a written work agreement, signed by the employer and by the worker (or the head of the family, if a family is employed). The work agreement must be in English, and in the worker's customary language if other than English.

Employment Conditions — The work agreement must specify the place of employment, the kind of work to be performed, the applicable wage rates to be paid, the length of the pay period, the approximate hours of employment and applicable overtime pay provisions, the approximate starting and ending dates of the job, the housing to be provided and its cost to the worker, the cost of any employer-provided meals, the arrangements for transportation, the names of all family members to be employed (if applicable), and the charges or deductions to be made against the worker's earnings beyond those required by law.

Guaranteed Hours — The work agreement must contain a guarantee of (1) at least 45 hours of work in each 2-week period for workers employed in agricultural field work only, or (2) at least 20 hours of work in each one-week period, or 64 hours in a 2-week period, if the worker is employed in both field and processing operations. The guarantee covers the entire interval from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

Exceptions to Guarantee — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available. Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to seriously adverse circumstances beyond the employer's control; within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). A migrant worker who has not received a recruiting disclosure statement, a written work agreement, or pay in accordance with guarantees shown in the work agreement, should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

GENERAL LABOR LAWS (FRAUDULENT ADVERTISING FOR LABOR)

STATUTORY CITATION: Wis. Stat. § 103.43

GENERAL SUMMARY: It is unlawful to recruit or persuade workers to change from one place of employment to another in Wisconsin, or to bring workers of any sort into the state, (1) by means of misrepresentation, false advertising or false pretenses concerning the nature of the work to be done, the amount of compensation to be paid, or the sanitary or other conditions of the job, or (2) by failure to advise the workers of the existence of a strike or lockout at the place of proposed employment, when in fact such a labor dispute actually exists there.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to all recruitment activities, without distinction as to occupational class.

SPECIAL NOTES OR ADVISORIES

APPLICATION OF LAW - According to the Department of Workforce Development, this law has been held to apply to manual laborers only, industrial labor in particular.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). The Department has general authority to investigate compliance with the state labor and employment laws, and to prosecute persons found in violation. Anyone convicted of labor recruitment practices contrary to these provisions is subject to a fine of up to \$2,000, imprisonment for up to one year, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*PRIVATE CIVIL ACTION — A worker who has been influenced or persuaded by misrepresentation, false advertising, or false pretenses to relocate for purposes of employment has a right to recover from the party responsible for the violation all damages sustained as a consequence, plus court costs and attorney's fees.

Michigan

WAGE PAYMENT LAWS (EMPLOYMENT FEES)

STATUTORY CITATION: Mich. Comp. Laws § 408.478

GENERAL SUMMARY: The state wage payment laws include a provision prohibiting employers from charging employees certain employment-related fees. The wage payment laws apply equally to agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS: An employer, or an agent of the employer (including a crew leader or labor contractor) having authority to hire or direct the services of the employer's workers, may not demand or receive a fee or other remuneration from a worker, directly or indirectly, as a condition of employment or continuation of employment, unless the person exacting the fee is licensed in Michigan as a personnel agent or agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). This agency is responsible for enforcing compliance with the wage payment laws, including the employment fee provision summarized above.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Licensing Division, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-8068). This agency handles the licensing of personnel agencies and monitoring of their business activities.

Minnesota

○ STATE LABOR LAWS (EMPLOYMENT CONTRACTS)

STATUTORY CITATION: Minn. Stat. §§ 181.55 - 181.57

GENERAL SUMMARY: When a contract of employment is consummated between an employer and a worker for services to be performed in Minnesota (or performed outside the state, but for a Minnesota employer), the employer must give the worker a signed agreement of hire which shows, among other things, (1) the date of agreement, (2) the date employment is to begin, (3) the rate of pay at which earnings will be computed, and (4) the number of hours constituting a regular day's work and the pay rate for any overtime to be paid. These provisions generally apply only to employers with 10 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement for a written agreement of hire between employers and employees does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None. PRIVATE CIVIL ACTION — These provisions are enforced in civil court.

Texas

MISCELLANEOUS LABOR LAWS (COERCION OF EMPLOYEE TRADE)

STATUTORY CITATION: Tex. Labor Code § 52.041

GENERAL SUMMARY: Chapter 52 of the state labor laws includes a provision prohibiting coercion of employee trade, implicitly applicable to both agricultural and non-agricultural workers.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer or anyone else to require — or attempt to require — an employee to do business with a particular company, or to buy food, clothing or other goods from a particular store. Likewise, it is illegal to punish, fire or blacklist an employee for failing to buy from or otherwise do business with a particular company or store.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. An offense under this provision is punishable by a fine of from \$50 to \$200.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

O NATIONAL LABOR RELATIONS ACT

STATUTORY CITATION: 29 USC §§ 151 - 169

GENERAL SUMMARY: The National Labor Relations Act affirms the right of most U.S. workers to full freedom of association, self-organization and representation of their own choosing, for the purpose of negotiating terms and conditions of their employment. This law defines certain unfair labor practices by both employers and labor organizations, establishes election procedures to determine the workers' wishes regarding union representation for collective bargaining purposes, and prescribes legal mechanisms for preventing unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: The National Labor Relations Act does not apply to any individual employed as an agricultural laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - National Labor Relations Board, Washington, D.C. 20570.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Colorado

O LABOR PEACE ACT

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-3-101 - 8-3-123

GENERAL SUMMARY: In the interest of industrial peace, regular and adequate income for the worker, and uninterrupted production of goods and services, the Labor Peace Act enumerates the organizational and other labor rights of employees, outlines procedures for state-supervised union elections, defines unfair labor practices by employers and workers, prescribes measures for the prevention of such practices, and provides for the arbitration or mediation of labor disputes.

PROVISIONS APPLICABLE TO AGRICULTURE: The Labor Peace Act does not apply to farm and ranch labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

O CONNECTICUT LABOR RELATIONS ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-101 - 31-111b

GENERAL SUMMARY: The Connecticut Labor Relations Act defines the labor rights of employees in the state, describes certain acts prohibited as unfair labor practices, outlines a process for the conduct of representational elections, and creates a state labor relations board to administer and enforce the Act's provisions.

PROVISIONS APPLICABLE TO AGRICULTURE: The Connecticut Labor Relations Act does not apply to individuals employed as agricultural workers or to persons engaged in farming.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Connecticut State Board of Labor Relations, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

STATE LABOR LAWS (LABOR ORGANIZATIONS)

STATUTORY CITATION: Fla. Stat. §§ 447.01-447.17

GENERAL SUMMARY: Chapter 447 of the state statutes regulates the activities and affairs of labor unions in Florida, affirms the right of workers in the state to self-organization and collective bargaining, upholds the right to strike under certain circumstances, and imposes limitations on union and anti-union activities. Insofar as it is recognized as a bargaining agent by one or more employers doing business in the state, a labor organization which has Florida residents among its membership and which is organized for the purpose of dealing with employers concerning hours of employment, wages, working conditions or worker grievances is subject to regulation, including annual registration and reporting, financial recordkeeping responsibilities, and other requirements and restrictions.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent it is recognized as a bargaining agent by one or more employers, a farm labor union is regarded as a labor organization and regulated to the same degree as a non-agricultural union, whether incorporated or not.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603). The Department is responsible for the registration of labor organizations in the state, and for licensing of union business agents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — The labor rights conferred on employees under these provisions are enforced in the state civil courts. Any worker aggrieved by an apparent violation should consult a private attorney or public legal service provider.

Hawaii

HAWAII EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 377-1 - 377-18

GENERAL SUMMARY: The Hawaii Employment Relations Act (1) affirms the right of most employees in the state to self-organization and collective bargaining, (2) establishes a state-administered process for determining bargaining units and conducting union representation elections (3) defines unfair labor practices by employers and employees, (4) imposes certain recordkeeping responsibilities on labor organizations, and (5) outlines other rights, restrictions and procedures applicable to workers, employers and labor organizations. In general, the Act applies to individuals employed by any employer with 2 or more employees, including those performing agricultural labor or services.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Farmworkers and other covered employees in Hawaii have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Such employees also have the right to refrain from any and all such activities, but employees may be required to join a union under an all-union agreement.

ELECTIONS — Whenever a question arises concerning representation of employees in a collective bargaining unit, the state agency administering the Act must arrange for and supervise a secret-ballot election and certify the results. The ballot must normally include the names of all potential representatives submitted by any employee or group of employees participating in the election, but the ballot must be prepared so as to permit any worker wishing to do so to vote against representation by any party named on the ballot.

REPRESENTATION — Representatives chosen for purposes of collective bargaining by a majority of the employees in a particular bargaining unit are the exclusive representatives of all the workers in the unit for bargaining purposes, but any worker or any minority group of workers in the unit has the right to present grievances to the employer in person or through representatives of their own choosing.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is unlawful for any employer (1) to interfere with, restrain or coerce its employees in the exercise of the rights mentioned above, (2) to interfere with the administration of a labor organization, or contribute financial support to it, (3) to encourage or discourage union membership by discriminating in hiring, tenure or other terms or conditions of employment, (4) to refuse to bargain in good faith with the representative of a majority of its employees, and (5) to violate the terms of a collective bargaining agreement.

UNFAIR LABOR PRACTICES BY EMPLOYEES — Among other acts, it is unlawful for an employee or group of employees (1) to coerce or intimidate any other worker in the enjoyment of the worker's legal rights, (2) to violate the terms of a collective bargaining agreement, (3) to refuse to accept the final determination of the state administering agency with respect to any issue in controversy, and (4) to engage in an unauthorized strike or picketing.

STRIKE NOTICE — In any instance where a strike by employees of a producer, harvester or processor of any agricultural product produced in the state would tend to cause the destruction or serious deterioration of the product, the employees must give the state agency at least 10 days' notice of their intention to strike. The agency is required to advise the employer immediately of such notice.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Hawaii Labor Relations Board, Honolulu, Hawaii 96813 (808-586-8610). The Board has authority to hold hearings for the purpose of determining appropriate collective bargaining units and to order and supervise union representation elections. The Board is responsible for investigating unfair labor practice charges filed by any party in interest, for issuing orders or decisions in response to such charges, and for petitioning the state courts, when necessary, to enforce such orders or decisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

STATE LABOR RELATIONS LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 150A, §§ 1 - 12

GENERAL SUMMARY: With the aim of mitigating and eliminating obstructions to the free flow of industry and trade, the State Labor Relations Law encourages the practice of collective bargaining in Massachusetts and protects employees' exercise of freedom of association, self-organization, and designation of collective bargaining representatives of their own choosing. Among other provisions, the law affirms the labor rights of employees, defines certain unfair labor practices, prescribes procedures for the prevention of unfair labor practices, and establishes a state-administered mechanism for determining appropriate bargaining units and holding representational elections.

PROVISIONS APPLICABLE TO AGRICULTURE

REPRESENTATION AND ELECTIONS — Whenever a question arises concerning the representation of agricultural workers employed by a person or firm with a permanent hired workforce of more than 4 agricultural workers (other than members of the employer's family), the state administering agency must arrange for a secret-ballot election or other appropriate means of resolving the question. Representatives designated or selected for collective bargaining purposes by the majority of the employer's workers are the exclusive representatives of all the employer's workers for such purposes, though any individual worker or group of workers retains the right at any time to present grievances to the employer directly.

WORKER RIGHTS — The section of the law which affirms the right of employees to self-organization, to form, join and assist labor organizations, and to bargain collectively over terms and conditions of their employment, *does not apply* to agricultural workers.

UNFAIR LABOR PRACTICES — Those sections of the law which define and prohibit certain unfair labor practices by employers and employees do not apply to agricultural workers.

PREVENTION OF UNFAIR LABOR PRACTICES — The prescribed procedures for filing, investigating and resolving unfair labor practice charges *do not apply* to agricultural workers.

SPECIAL NOTES OR ADVISORIES

INTERPRETATION OF AGRICULTURAL WORKER EXEMPTION — Since the Labor Relations Law does guarantee the right of a majority of workers on farms with more than 4 permanent agricultural employees to be represented for purposes of collective bargaining, and provides that representatives so chosen must represent all the workers in the bargaining unit, it can be argued that the provisions in the law that define and prohibit unfair labor practices also apply, and that the Department of Labor Relations can enforce them in those cases. The courts have not yet interpreted how these provisions apply to farm labor, and the Department is not aware of any agricultural workers organized under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Relations, Boston, Massachusetts 02114 (617-626-7132). With respect to covered agricultural workplaces, the Department is authorized (1) to investigate petitions, either from subject employers or from covered workers, requesting certification or decertification of a labor organization, (2) to arrange elections for settling questions of representation, and (3) to certify to the parties, in writing, the name of the representatives who have been designated or selected.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

MINNESOTA LABOR RELATIONS ACT

STATUTORY CITATION: Minn. Stat. §§ 179.01 - 179.17

GENERAL SUMMARY: The Minnesota Labor Relations Act (1) affirms the right of most workers in the state to organize, to bargain collectively through representatives of their own choosing, and to engage in related labor activities, (2) affirms the right of most employers to associate together for collective bargaining purposes, (3) defines certain unlawful labor practices by employers and workers, (4) establishes state-administered procedures for determining appropriate bargaining units and holding secret-ballot representational elections, and (5) authorizes civil actions to prevent or eliminate unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minnesota Labor Relations Act does not apply to individuals employed in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Minnesota Bureau of Mediation Services, St. Paul, Minnesota 55108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

New York

O NEW YORK STATE EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: N.Y. Labor Law §§ 700 - 718

GENERAL SUMMARY: In order to encourage collective bargaining and to protect employees in the exercise of freedom of association, self-organization and representation, the New York State Employment Relations Act explicitly enumerates the labor rights of employees in the state, defines certain unfair labor practices by employers, establishes a state-administered framework for conducting representational elections, and outlines procedures for preventing, reporting and resolving unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: The New York State Employment Relations Act does not apply to individuals employed as farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - New York State Public Employment Relations Board, Albany, New York 12220. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

O NORTH DAKOTA LABOR-MANAGEMENT RELATIONS ACT

STATUTORY CITATION: N.D. Cent. Code §§ 34-12-01 - 34-12-14

GENERAL SUMMARY: The North Dakota Labor-Management Relations Act affirms the right of most employees in the state to self-organize, to form and join labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for their mutual aid or protection. Workers also enjoy the right to refrain from such activities. The Act defines certain unfair labor practices and authorizes the state labor commissioner to accept and resolve complaints charging any such practice. The commissioner also has the power to call and conduct secret-ballot elections among workers covered by the Act whenever a question of representation is raised or a dispute arises regarding authorization to strike.

PROVISIONS APPLICABLE TO AGRICULTURE: The Labor-Management Relations Act does not apply to agricultural laborers or farmers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

C LABOR RELATIONS LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 663.005 - 663.325

GENERAL SUMMARY: Chapter 663 of the state statutes defines certain unfair labor practices by employers and labor organizations, and establishes an administrative structure for determining appropriate collective bargaining units, for holding state-supervised employee elections to decide questions concerning union representation, and for resolving charges of unfair labor practices.

PROVISIONS APPLICABLE TO AGRICULTURE: Oregon's labor relations law does not apply to persons employed in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Oregon Employment Relations Board, Salem, Oregon 97301.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

O PENNSYLVANIA LABOR RELATIONS ACT

STATUTORY CITATION: 43 Pa. Stat. §§ 211.1 - 211.13

GENERAL SUMMARY: The Pennsylvania Labor Relations Act guarantees the right of most employees in the state to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. The Act forbids employers and labor organizations from engaging in certain specified unfair labor practices and sets up an administrative framework for resolving unfair labor practice charges lodged by workers, labor organizations and employers, and for conducting state-supervised elections to settle questions of representation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Pennsylvania Labor Relations Act does not apply to individuals employed as agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Pennsylvania Labor Relations Board, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

PUERTO RICO LABOR RELATIONS ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 61 - 76

GENERAL SUMMARY: The Puerto Rico Labor Relations Act defines the organizational rights of covered employees, provides for the settlement of questions concerning employee representation, defines certain unfair labor practices, and establishes procedures for resolving charges by workers and employers alleging such practices. The Act generally applies to all employees in Puerto Rico's public corporations, and to non-governmental employees not covered by the National Labor Relations Act (see entry, U.S.—Labor Relations & Collective Bargaining—General Labor Relations).

SPECIFIC TERMS AND CONDITIONS

LABOR RIGHTS — Private agricultural and non-agricultural workers have the right to self-organize, to form, join and assist labor organizations, to bargain collectively with their employers through representatives of the workers' own choosing, and to engage in related activities for their mutual aid and protection.

REPRESENTATIVES AND ELECTIONS — Whenever a question concerning representation of employees arises, the agency responsible for administering the Act may investigate and settle the question, by ordering a secret-ballot election or by taking appropriate alternative measures. In every such election, the ballot must be prepared so as to permit a vote against representation by anyone named on the ballot. An entity designated or elected for collective bargaining purposes by a majority of the workers in a given bargaining unit is considered the exclusive representative of all the workers in the unit, but an individual worker still has the right at any time to present individual grievances to his or her employer.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is illegal for an employer (1) to coerce, restrain or interfere with employees in the exercise of the rights outlined above, (2) to attempt to dominate or interfere with the formation or administration of a labor organization, or contribute support to a labor organization, (3) to attempt to encourage or discourage membership in a labor organization, (4) to refuse to bargain collectively with the representative of a majority of the employees in a particular bargaining unit, or (5) to violate the terms of a collective bargaining contract.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Puerto Rico Labor Relations Board, San Juan, Puerto Rico 00919 (787-620-9545). It is the role of the Board to receive and act on petitions for union elections and otherwise resolve representational disputes between workers and employers. Likewise, the Board must respond to unfair labor practice charges by appropriate investigation, fact-finding hearings and conciliation meetings, and may order suitable corrective action whenever a violation is confirmed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

O RHODE ISLAND STATE LABOR RELATIONS ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-7-1 - 28-7-49

GENERAL SUMMARY: The Rhode Island State Labor Relations Act explicitly grants most employees the right to organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities free from interference, restraint or coercion. The Act prohibits employers from committing certain specified unfair labor practices and establishes procedures for reporting and resolving complaints alleging any such conduct. The state agency created to administer and enforce the Act is also authorized to settle controversies concerning representation, through supervised secret-ballot elections or other appropriate means.

PROVISIONS APPLICABLE TO AGRICULTURE: The Rhode Island State Labor Relations Act does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Rhode Island State Labor Relations Board, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Dakota

O COLLECTIVE BARGAINING LAW

STATUTORY CITATION: S.D. Codified Laws §§ 60-9A-1 - 60-9A-14

GENERAL SUMMARY: Chapter 9A of the South Dakota labor statutes guarantees most workers in the state the right to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful concerted activities for their mutual aid or protection. Workers are also free to refrain from any or all such activities.

Whenever a question of representation arises, either upon the filing of a petition by any party to such a dispute or otherwise, the law authorizes the state labor department to conduct a secret-ballot election to determine whether or not a majority of the workers wish to be represented, and if so, by whom. The law also defines certain unfair labor practices by both employers and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: South Dakota's collective bargaining law does not apply to farm and ranch labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

O EMPLOYMENT RELATIONS LAW

STATUTORY CITATION: Utah Code §§ 34-20-1 - 34-20-13

GENERAL SUMMARY: Chapter 20 of the Utah labor laws authorizes the state labor relations board (1) to determine appropriate employment units for collective bargaining purposes, (2) to settle controversies regarding the will of the workers in any such unit to be represented by a collective bargaining agent, either by arranging a secret-ballot election or by other means, and (3) to receive, investigate, and pass judgment on complaints charging certain prohibited labor practices. The statute affirms the right of most employees in the state to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for mutual aid or protection; employees also have a right to refrain from any or all such activities.

PROVISIONS APPLICABLE TO AGRICULTURE: Utah's employment relations law does not apply to anyone employed as an agricultural laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Utah Labor Relations Board, Salt Lake City, Utah 84114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Vermont

O STATE LABOR RELATIONS ACT

STATUTORY CITATION: Vt. Stat. Title 21, §§ 1501 - 1624

GENERAL SUMMARY: The State Labor Relations Act assures most private-sector workers in Vermont who (1) have 5 or more employees, and (2) are not covered by the National Labor Relations Act, the right to organize, to join and assist labor organizations, to bargain collectively through representatives of their own choice, and to engage in other concerted activities for their mutual aid and protection. The Act prescribes an administrative framework for resolving questions of representation through state-supervised secret-ballot elections, and for preventing and eliminating unfair labor practices by employers and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: The State Labor Relations Act does not apply to agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Vermont Labor Relations Board, Montpelier, Vermont 05633. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

C LABOR-MANAGEMENT RELATIONS ACT FOR THE PRIVATE SECTOR

STATUTORY CITATION: W. Va. Code §§ 21-1A-1 - 21-1A-8

GENERAL SUMMARY: The Labor-Management Relations Act for the Private Sector encourages the practice of collective bargaining in most trades and industries in West Virginia, by (1) protecting the right of workers to freely associate, self-organize, and designate representatives of their own choosing for the purpose of negotiating terms and conditions of employment, (2) establishing procedures for determining, through secret-ballot elections, the will of the workers in any appropriate bargaining unit to be represented by a labor organization or not, (3) defining and outlawing unfair labor practices by both employers and labor organizations, and (4) prescribing procedures for receiving, investigating and resolving unfair labor practice charges.

PROVISIONS APPLICABLE TO AGRICULTURE: The Labor-Management Relations Act **does not apply** to individuals employed in agricultural production, or in the processing or marketing of agricultural products by the producer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

EMPLOYMENT PEACE ACT

STATUTORY CITATION: Wis. Stat. §§ 111.02 - 111.19

GENERAL SUMMARY: The Employment Peace Act establishes standards for the conduct of private-sector labor relations in Wisconsin and provides a state-administered mechanism for resolving conflicts over the respective rights and obligations of private-sector employees, employers and labor organizations. The Act applies to virtually all private employment other than domestic service in the home.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Employees have the right to organize, to form, join and assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful activities for mutual aid or protection. Workers are also entitled to refrain from any or all such activities.

Effective March 11, 2015, employees cannot be required to make any payments to a labor organization, nor can employee payments to a labor organization be required as a condition of obtaining or continuing employment.

REPRESENTATIVES AND ELECTIONS — Whenever a worker, a group of workers, or an employer, through a formal petition to the state administering agency, raises a question concerning the will of the workers to be represented for collective bargaining purposes, the state agency is required to respond by arranging a secret-ballot election to resolve the issue. The names of all persons or organizations submitted by any of the workers participating in the election must appear on the ballot, and workers must also be given the option of voting against representation by anyone named on the ballot. Representatives chosen by a majority of the workers in a collective bargaining unit are the exclusive representatives of all employees in the unit for collective bargaining purposes, though any worker or minority group of workers still has the right to present grievances at any time to their employer in person or through representatives of their own choosing.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is unlawful for an employer (1) to interfere with, restrain or coerce employees in the exercise of the rights outlined above, (2) to dominate or interfere with the formation or administration of a labor organization, or contribute financial support to it, (3) to encourage or discourage membership in a labor organization by discriminating in regard to hiring, tenure or other terms or conditions of employment, (4) to refuse to bargain with the representative of a majority of the workers in a bargaining unit, or (5) to violate the terms of a collective bargaining agreement.

AGRICULTURAL STRIKES — Where the exercise of the right to strike by agricultural workers would tend to cause the destruction or serious deterioration of farm products produced in Wisconsin, the workers must give the state agency at least 10 days' notice of their intention to strike. The agency must immediately notify the employer of receipt of such notice, and must take immediate steps to mediate the dispute or induce the parties to submit the controversy to arbitration if mediation is unsuccessful.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wisconsin Employment Relations Commission, Madison, Wisconsin 53704 (608-243-2424). The Commission is responsible for overseeing the general conduct of labor relations and collective bargaining activities in the state, for resolving specific questions regarding employee representation, and for resolving unfair labor practice complaints. Any worker who believes his or her rights under the Employment Peace Act have been abridged or violated may file a complaint with the Commission, which is authorized to hold investigatory hearings, subpoena witnesses and documents, take sworn testimony, and order appropriate corrective action by any respondent found in violation.

Arizona

➡ ARIZONA AGRICULTURAL EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-1381 - 23-1395

GENERAL SUMMARY: Declaring, in part, that agricultural employees are free to organize and enter into collective bargaining contracts establishing their wages and other terms of employment (or to refrain from such activities), the Arizona Agricultural Employment Relations Act sets up a state-administered process for elections to resolve questions concerning representation of agricultural employees, defines the organizational and collective bargaining rights of employees and the management rights of employers, prohibits certain specified unfair labor practices by both employers and labor organizations, and regulates the conduct of contract negotiations between employers and certified representatives of their employees.

The Act applies to agricultural employers that employed 6 or more agricultural employees for a period of 30 days during the preceding six months, as well as to independent contractors (including farm labor contractors or crew leaders) who provide labor and services on one or more farms and employed 6 or more farm employees for 30 days during the preceding six months.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Among other rights, agricultural employees are free to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, or to bargain directly for themselves. Farmworkers also have the right to refrain, without interference, from any or all such activities.

RIGHTS OF EMPLOYERS — Among other rights, agricultural employers are entitled to manage, control and conduct their farming operations, to hire, transfer or fire their employees in accordance with the employees' ability, to determine the type of equipment or machinery to be used, and to set the standards and judge the quality of work.

ISSUES SUBJECT TO NEGOTIATION — The terms of employment relating to wages, hours, conditions of work, and matters of worker safety, sanitation and health, as well as the establishment of grievance procedures directly relating to the job, are subject to negotiation between employers and workers or their representatives.

ELECTIONS — If a valid question of representation exists, the state agency administering the Act must call an election by secret hallot whenever:

- (1) An agricultural employee, a group of agricultural employees, or a labor organization acting in their behalf presents a petition alleging (a) that at least 30 percent of the agricultural employees in a particular employment unit wish to be represented and that their employer declines to recognize their representative, or (b) that the individual or labor organization currently certified or recognized by the employer as the bargaining representative is no longer a representative; or
- (2) An agricultural employer presents a petition alleging (a) that one or more individuals or labor organizations have presented the employer with a claim to be recognized as the employees' representative, or (b) that an individual or labor organization previously certified as the bargaining representative is no longer a representative.

In any representation election, voters must be offered an opportunity to vote "no union."

UNFAIR LABOR PRACTICES BY EMPLOYERS — In addition to other prohibited acts, agricultural employers may not interfere with the exercise of employees' rights under the Act and related provisions, may not discourage or encourage membership in any labor organization, and may not refuse to bargain collectively with certified representatives of their agricultural employees.

UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS — Among other prohibited acts, labor organizations and their agents (1) may not intimidate, restrain or coerce agricultural employers in the exercise of their rights under the Act, (2) may not intimidate, restrain or coerce agricultural employees in the exercise or enjoyment of their rights under this law and related provisions, (3) may not refuse to bargain collectively with an agricultural employer, provided the labor organization is the certified representative of the employer's employees, (4) may not engage in a secondary boycott, and (5) may not call a strike unless a majority of the employees within the bargaining unit have first approved such a strike by secret ballot.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Employment Relations Board, Phoenix, Arizona 85007 (602-542-3262). The Board is responsible for processing petitions for representation and decertification elections, supervising all such elections, enforcing employee and employer rights under the Act, and enforcing compliance with the Act's unfair labor practices provisions.

California

AGRICULTURAL LABOR RELATIONS ACT OF 1975

STATUTORY CITATION: Cal. Lab. Code §§ 1140-1166.3

GENERAL SUMMARY: Declaring it a matter of public policy to encourage and protect the right of agricultural employees to organize freely and to negotiate the terms and conditions of their employment without interference, restraint or coercion, the Agricultural Labor Relations Act establishes a state-administered mechanism to assure the exercise of collective bargaining rights by the state's farmworkers. The Act enumerates the rights of agricultural employees, defines various unfair labor practices, outlines the process under which representation elections may be petitioned and under which such elections must be conducted, and prescribes measures for preventing unfair labor practices and enforcing compliance.

SPECIFIC TERMS AND CONDITIONS

WORKERS' RIGHTS — Agricultural employees have the right to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Workers also have the right to refrain from any or all such activities, except to the extent that this right may be affected by a valid agreement requiring membership in a labor organization as a condition of continued employment.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other prohibited acts, it is unlawful for an agricultural employer (1) to interfere with or coerce agricultural employees in the exercise of the rights listed above, (2) to dominate or interfere with the formation or operation of a labor organization, or contribute support to it, (3) to encourage or discourage membership in any labor organization by discrimination in hiring or setting terms and conditions of employment, (4) to fire or otherwise discriminate against a worker in retaliation for the worker's having filed charges or given testimony under the Act, (5) to refuse to negotiate in good faith with a labor organization that has been certified as the exclusive representative of the workers for collective bargaining purposes, or (6) to recognize, bargain with or sign a collective bargaining agreement with any labor organization not certified as the representative of the workers.

UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS — Among other prohibited acts, it is unlawful for a labor organization or its agents (1) to interfere with agricultural employees in the exercise of the rights outlined above, or to interfere with employers in the selection of their collective bargaining representatives, (2) to engage in or promote discrimination against employees for reasons related to their membership or non-membership in a labor organization, (3) to refuse to bargain in good faith with an agricultural employer whose employees the labor organization is certified to represent, or (4) to engage in certain types of strikes, picketing and boycotts.

ELECTIONS — Any agricultural employee or group of employees, or any person or labor organization acting in their behalf, may file a petition with the state administering agency requesting an election for the purpose of determining the workers' wishes with regard to union representation, provided (1) the petition is signed by, or accompanied by authorization cards signed by, a majority of the current employees in the bargaining unit, (2) the number of agricultural workers currently employed is not less than 50 percent of the employer's peak agricultural employment for the current calendar year, (3) no election has been conducted among the employer's workers within the most recent 12 months, (4) no labor organization is currently certified as the workers' representative, and (5) the petition is not barred by an existing collective bargaining agreement. If the Board's investigation determines that a bona fide question of representation exists, the Board must arrange for a secret-ballot election within 7 days of the filing of the petition (or, if possible, within 48 hours if the majority of the workers are on strike). Any other labor organization that presents authorization cards signed by at least 20 percent of the workers in the bargaining unit within 24 hours of the election must also appear on the ballot. Except in the case of runoff elections between competing unions, employees must be given an opportunity to vote against being represented by a labor organization at all.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Labor Relations Board, Sacramento, California 95814 (800-449-3699). The Board is responsible for determining the appropriate unit or units of agricultural employees among which each secret ballot election will be held, for conducting such elections, and for monitoring compliance with the unfair labor practice provisions of the Act. The Board must respond to all complaints of unfair labor practices, through investigation and hearing. In conducting these functions, the Board and its agents have the right of free access to all workplaces and the right to subpoena witnesses and documents.

Kansas

→ AGRICULTURAL EMPLOYMENT RELATIONS LAW

STATUTORY CITATION: Kan. Stat. §§ 44-818 - 44-830

RELATED REGULATIONS: Kan. Admin. Regs. §§ 12-1-1 - 12-2-17

GENERAL SUMMARY: To eliminate obstructions to the free flow of commerce, while protecting the right of agricultural workers in Kansas to organize without undue injury to the public interest, the agricultural employment relations law (1) clarifies the labor rights of farmworkers and the corresponding rights of agricultural employers, (2) prescribes procedures for certification or recognition of employee bargaining representatives, (3) defines certain prohibited practices by employers, workers and worker organizations, and (4) creates a state board to resolve representational questions, mediate bargaining disputes, and process unfair labor practice complaints.

These provisions generally apply only to agricultural employers who employed 6 or more workers for 20 or more days of any calendar month during the six months preceding the filing of a petition for recognition by such workers.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF WORKERS — Agricultural employees have the right to form, join and participate in the activities of labor organizations of their own choosing, for the purpose of meeting and conferring with agricultural employers concerning grievances and employment conditions. Farmworkers also have the right to refrain from such activities, and no worker may be required to join a labor organization as a condition of employment.

RIGHTS OF EMPLOYERS — Agricultural employers have the right to manage their own production operations, which includes directing the work of their employees, making decisions regarding the hiring, promotion, demotion, suspension, and discharge of their employees, and determining what crops will be produced and how they will be grown and marketed.

CERTIFICATION OR RECOGNITION OF LABOR ORGANIZATIONS — Upon filing of a petition for certification or investigation of a bargaining representative, accompanied by the names of at least 30 percent of the workers in an appropriate bargaining unit, or when a question concerning representation is raised by an employer, the state board is required to determine voting eligibility and conduct an election. Recognition will be granted only to a labor organization that has been selected by secret ballot by a majority of the eligible workers in an appropriate unit who vote in the election. Each worker must be given an opportunity to vote for the labor organization of his or her choice, or to choose no representation. A certified labor organization is obligated to fully and equally represent all employees in the unit involved, irrespective of their membership in the organization.

If the board has certified a labor organization in a particular unit, it is generally not required to consider the matter again for a period of one year. Furthermore, no election may be ordered if a valid contract is in effect, for a duration not exceeding 3 years, unless a petition is received from at least 70 percent of the unit's employees seeking decertification.

PROHIBITED PRACTICES BY EMPLOYERS — Agricultural employers and their representatives are forbidden from engaging in the following acts, among others:

- (1) Interfering with, restraining or coercing farmworkers in the exercise of the rights outlined above.
- (2) Dominating, interfering with or assisting in the formation or administration of an agricultural labor organization.
- (3) Encouraging or discouraging membership in a labor organization or similar association, by discriminating in hiring, tenure or other conditions of employment.
- (4) Refusing to meet and confer in good faith with representatives of certified or recognized labor organizations.

PROHIBITED PRACTICES BY WORKERS AND LABOR ORGANIZATIONS — Among others, the following activities are forbidden of agricultural workers and agricultural labor organizations:

- (1) Interfering with, restraining or coercing farmworkers in the exercise of the worker rights mentioned above.
- (2) Interfering with the management rights of agricultural employers, as discussed above.
- (3) Conducting organizational picketing at an employer's residence or place of business.
- (4) Refusing to meet and confer in good faith with an agricultural employer as required.
- (5) Engaging in a strike during a critical period of production or harvesting, or during mediation, fact-finding or arbitration proceedings.
- (6) Engaging in a secondary boycott.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

SPECIAL NOTES OR ADVISORIES

ENFORCEMENT LIMITATION — The agency created to enforce the agricultural employment relations law is activated only when a complaint is filed with the state Secretary of Agriculture alleging the existence of a controversy. Within 15 days of such a filing, the Secretary of Labor, the Secretary of Administration, and the Secretary of Agriculture must submit to the Governor the names of potential appointees, representing agricultural workers, agricultural employers, and the general public, respectively. Within 10 days after receiving the names, the Governor is required to appoint one person from each list to comprise the Agricultural Labor Relations Board. The agency is deactivated when the agriculture secretary determines there is no pending or threatened controversy under the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Labor Relations Board, Kansas Department of Labor, Topeka, Kansas 66603. This agency is currently inactive.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Secretary of Agriculture, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6700). As described in the special note above, the Secretary of Agriculture has authority to activate and deactivate the Agricultural Labor Relations Board, in response to labor conflicts submitted to the Secretary's office and in the absence of such conflicts.

Louisiana

AGRICULTURAL LABORERS' RIGHT TO WORK LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:881 - 23:889

GENERAL SUMMARY: The Agricultural Laborers' Right To Work Law affirms certain labor rights applicable to farmworkers in Louisiana and prohibits agreements and practices which abridge those rights.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — No agricultural worker in Louisiana may be required by an employer to refrain from joining a labor union or labor organization as a condition of hiring or continued employment. At the same time, no farmworker may be required to become or remain a member of a labor union, or to pay union dues or similar assessments to a labor organization, as a condition of hiring or continued employment.

ILLEGAL AGREEMENTS — Any agreement, understanding or practice which has the effect of either prohibiting or compelling union membership as a condition of hiring or continued employment is declared illegal and contrary to public policy.

COLLECTIVE BARGAINING RIGHTS — The provisions summarized above may not be construed to deny or abridge the right of agricultural laborers by and through a labor organization or labor union to bargain collectively with their employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - These provisions are enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An agricultural worker who is denied employment or fired because of membership or non-membership in a labor union or labor organization is entitled to recover damages in a private civil suit against the employer or labor organization responsible for the violation. Likewise, any labor union or employer injured as a result of a violation or threatened violation of any of these provisions is entitled to injunctive relief against the party or parties committing or threatening a violation.

STATE LABOR LAWS (STRIKEBREAKING ACTIVITIES)

STATUTORY CITATION: La. Rev. Stat. §§ 23:900 - 23:904

GENERAL SUMMARY: It is generally unlawful for any person, firm or corporation which is not directly involved in a labor strike or lockout to hire or recruit any worker for a job, or to secure or offer to secure work for any worker, when the purpose or effect of such action is to have the worker take the place of a striking employee at a job site where a strike or lockout exists. It is likewise unlawful for a party not directly involved in a strike or lockout to import or transport anyone into Louisiana for the purpose of supplanting a striking worker at the site of a strike or lockout.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against strikebreaking activity does not apply to farming, agricultural pursuits, or the handling or primary processing of perishable raw agricultural commodities, or to those engaged therein.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Minnesota

○ MINNESOTA LABOR UNION DEMOCRACY ACT

STATUTORY CITATION: Minn. Stat. §§ 179.18 - 179.25

GENERAL SUMMARY: The Labor Union Democracy Act imposes conditions, limitations and procedures for the election of labor union officers, including requirements for advance notice of elections, voting by secret ballot, and four-year term limits. The law also sets general standards for the reporting of financial receipts, disbursements, assets and liabilities to the union membership.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minnesota Labor Union Democracy Act does not apply to individuals employed in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Minnesota Bureau of Mediation Services, St. Paul, Minnesota 55108. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

STRIKEBREAKERS ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:13C-1 - 34:13C-6

GENERAL SUMMARY: It is illegal for any person, firm or corporation to import or supply anyone from outside New Jersey, or to transport anyone within the state, with the objective of (1) replacing workers who are lawfully on strike or who have been locked out, (2) interfering with or intimidating workers who are picketing an employer or engaged in other lawful activities in support of a strike, or (3) interfering with the right of workers to form, join or assist labor organizations or to engage in collective bargaining with their employers.

PROVISIONS APPLICABLE TO AGRICULTURE: With the exception of common carriers, these provisions apply to all employment in the state, implicitly including agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - The Strikebreakers Act is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

MISCELLANEOUS LABOR LAWS (RECRUITMENT AND EMPLOYMENT OF STRIKEBREAKERS)

STATUTORY CITATION: Okla. Stat. Title 40, §§ 199.1 - 199.4

GENERAL SUMMARY: In general, it is a misdemeanor for any person, firm, agency or other entity to knowingly recruit, supply or refer any worker to a job vacated by an employee on strike or locked out, when such worker has customarily and repeatedly offered to take the place of employees involved in strikes or lockouts. It is similarly unlawful for such a worker to take or offer to take the place of employees involved in a strike or lockout. Likewise, no one may recruit, solicit or advertise for workers, or refer workers to employment, in place of striking or locked-out employees without giving adequate notice of the existence of a strike or lockout at the workplace, and advising that the job offer is for the purpose of replacing striking or locked-out employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The anti-strikebreaking provisions apply to agricultural employment to the same extent as employment in non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department is authorized to investigate and refer complaints charging violation of the strikebreaking provisions to local district attorneys for criminal prosecution. A violation is punishable by a fine of from \$500 to \$2,500, a jail term of from 60 days to one year, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

MISCELLANEOUS LABOR LAWS (STRIKEBREAKING)

STATUTORY CITATION: Wash. Rev. Code § 49.44.100

GENERAL SUMMARY: It is generally illegal for any person, firm or corporation not directly involved in a strike or lockout to recruit or offer employment to individuals from outside the state, and to bring them into Washington, when the purpose of such activities is to replace workers who are on strike or subject to a lockout, or to have the individuals act as pickets where a labor dispute is in progress.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies irrespective of the nature of the employment involved in the dispute or the occupational classification of the workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). The Department has general authority to investigate reported and suspected non-compliance with the state labor laws and to refer cases to local and state prosecuting attorneys for legal action. Violation of the strikebreaking provision is deemed a gross misdemeanor.

Wisconsin

GENERAL LABOR LAWS (RECRUITMENT OF STRIKEBREAKERS)

STATUTORY CITATION: Wis. Stat. § 103.545

GENERAL SUMMARY: Chapter 103 of the state statutes contains provisions prohibiting the recruitment of strikebreakers, generally defined as anyone who at least twice during the previous 12-month period has accepted employment for the duration of a strike or lockout in place of employees involved in the dispute. These provisions apply to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS: No employer may knowingly employ or contract with another party to employ any strikebreaker to replace employees who are on strike against or locked out by the employer. Likewise, no one who is not directly involved in a strike or lockout may recruit a strikebreaker for employment when the purpose of such activity is to have the strikebreaker replace an employee in an industry or establishment where a strike or lockout is in progress. It is also illegal for anyone to transport or arrange to transport any strikebreaker to Wisconsin for employment in an establishment affected by a strike or lockout.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-6860). A worker adversely affected by an apparent violation of these provisions may submit a complaint to the Department, which has authority to investigate and issue orders to enforce compliance. The statute provides for a criminal fine, imprisonment or both such penalties for a violation of this provision.

U.S.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

STATUTORY CITATION: 7 USC §§ 136 - 136y

RELATED REGULATIONS: 40 CFR Parts 156 and 171

GENERAL SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (1) establishes standards for the registration and labeling of pesticide products, (2) requires the certification of commercial and private applicators of restricted-use pesticides, (3) imposes recordkeeping duties on certified commercial applicators, and (4) forbids applicators from engaging in certain prohibited acts. FIFRA gives the administering agency broad authority to prescribe regulations to implement and enforce the Act.

SPECIFIC TERMS AND CONDITIONS

PESTICIDE LABELING — Every pesticide product made, sold or used in the United States must be labeled in accordance with standards prescribed in the Act. Among other required information, the label must contain (1) a statement of ingredients, (2) a statement of the use classification (general, restricted, or both) under which the product is registered, (3) the name and address of the manufacturer or registrant, and (4) if the product contains any highly toxic substance, the skull-and-crossbones symbol, the word "Poison" in red letters, and a statement of practical treatment in case of poisoning.

CERTIFICATION OF APPLICATORS — Any individual who uses or supervises the use of a restricted-use pesticide must be certified to do so, either by the U.S. Environmental Protection Agency or by a state agency designated for that purpose under a federally approved plan for applicator certification. As described in brief below, each applicant for certification must demonstrate competency in the use and handling of pesticides.

Commercial Applicators — All commercial-class applicants (which include persons who, for compensation, use or supervise the use of restricted pesticides in the production of agricultural commodities) must receive a passing score on a written examination covering (1) pesticide labeling and labeling comprehension, (2) safety hazards and corresponding precautions and first-aid procedures, (3) the environmental consequences of the use and misuse of pesticides, (4) recognition and biology of pest organisms, (5) pesticide types and characteristics, (6) pesticide equipment, (7) application techniques, including prevention of drift, (8) pesticide laws and regulations, (9) the responsibilities of supervisors of non-certified applicators, and (10) professionalism in pesticide-related security and communication. Applicants seeking certification as commercial agricultural pest control applicators must, in addition, evidence practical knowledge of crops and the particular pests commonly associated with each crop, soil and water problems, pre-harvest application intervals, re-entry intervals, and the potential for environmental contamination, non-target injury, and community problems resulting from the use of pesticides in agricultural areas.

Private Applicators — Applicants for certification as private applicators (which include agricultural producers who use or supervise the use of restricted-use agricultural pesticides on their own property, or on another person's property if such services are not performed for hire) must demonstrate practical knowledge of agricultural pest control and the use of restricted pesticides. These competencies include (1) understanding product labels and labeling information, (2) common routes and symptoms of pesticide exposure, precautions for preventing pesticide injuries, and procedures for responding to pesticide accidents, (3) the potential environmental consequences of pesticide misuse, (4) identification and effective control of agricultural pests, (5) the characteristics of pesticides, (6) the types, use, maintenance and calibration of pesticide equipment, (7) application methods, (8) state and federal pesticide laws and regulations, (9) the responsibilities of supervisors of non-certified applicators, (10) stewardship in pesticide-related security and communication, and (11) knowledge of ag-specific pests, avoiding contamination of ground and surface water, and understanding of pre-harvest and restricted-entry intervals.

RECORDKEEPING — Every certified applicator of restricted-use pesticides is required to maintain true and accurate records of the use of restricted-use pesticides, including (1) the name and address of the person for whom the pesticide was applied, (2) the location of the pesticide application, (3) the target pest, (4) the specific crop and site to which the product was applied, (5) the date and time of application, (6) the trade name and EPA registration number of the pesticide applied, (7) the dosage used, and (8) the amount of product disposed of, method of disposal, date of disposal, and location of the disposal site. Commercial applicators must make such records available for inspection and copying by representatives of the enforcement agency for a period of at least 2 years from the date of the pesticide's use.

PROHIBITED ACTS — Among other unlawful activities, pesticide applicators in all classifications are forbidden from using any registered pesticide in a manner inconsistent with its labeling, failing or refusing to keep required records, making false records or reports, failing to comply with any restrictions in a duly issued certificate, or violating any provision of the Act or the regulations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "Pesticides & Agricultural Chemicals" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090). In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

Alabama

ALABAMA PESTICIDE ACT

STATUTORY CITATION: Ala. Code 1975 §§ 2-27-1 - 2-27-63

RELATED REGULATIONS: Ala. Admin. Code, Chs. 80-1-13 and 80-1-14

GENERAL SUMMARY: With the aim of preventing injury to health, property, crops, livestock and wildlife, either directly or through drift, Chapter 27 of the state agriculture statutes regulates the registration, sale, application and other use of pesticides in Alabama, and authorizes adoption of administrative regulations consistent with these purposes.

SPECIFIC TERMS AND CONDITIONS

LICENSING OF APPLICATORS — No one may engage in the application of pesticides for hire without obtaining an annual license from the state. Issuance of such a license is contingent upon satisfactory completion of a written examination covering the proper application of pesticides and the dangers involved and precautions to be taken in connection with their use. Applicants for a license must also post a surety bond or obtain liability insurance covering any damages caused by the administration of pesticides by the licensee.

EQUIPMENT AND FACILITIES — Licensed applicators are required to keep their pesticide application equipment properly calibrated and maintained in proper functional condition at all times. Licensees' storage, mixing and disposal facilities must be maintained in a manner so as not to cause injury or damage to people, animals or the environment.

STORAGE OF PESTICIDES — Licensed applicators must keep all pesticides in a clean, well ventilated, well lighted area which can be secured from entry by lock.

AERIAL APPLICATION STANDARDS — It is unlawful for anyone to dispense pesticides from an aircraft (1) under conditions that would allow the pesticide to drift outside the target area, result in over-spray, cause potential adverse effects to people or the environment, or (2) in a manner inconsistent with the product's label.

RECORDKEEPING — Persons licensed as custom applicators are required to keep a record of each pesticide application, including the name and address of the person for whom the treatment was performed, the location of the treated area, the name of the crop involved, the date of application, the name of the pesticide used, and other related information specified in the regulations.

EXCEPTIONS — This law does not apply to persons engaged in farming activities who use their own ground equipment or aircraft for the application of pesticides (unless they use such equipment for compensation and on property not owned or leased by them), nor does it apply to products used on lawns, trees or shrubs adjacent to homes or other buildings, or to chemicals used for the control of household pests.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Management Section, Alabama Department of Agriculture and Industries, Montgomery, Alabama 36107 (334-240-7242). Representatives of the Department are authorized to enter public and private property for the purpose of inspecting aircraft and ground equipment used in the custom application of pesticides. Inspectors may also examine related books and records. The agency may refer cases of non-compliance to the state attorney general for appropriate legal action. Violations are treated as a misdemeanor, punishable by a fine, a jail sentence, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alaska

STATE ENVIRONMENTAL CONSERVATION LAWS (PESTICIDE CONTROL)

STATUTORY CITATION: Alaska Stat. § 46.03.320

RELATED REGULATIONS: Alaska Admin. Code Title 18, §§ 90.010 - 90.990

GENERAL SUMMARY: In order to help conserve, improve and protect the state's environment and natural resources, the state environmental conservation laws establish broad control over the registration, labeling, sale, transportation, handling and use of pesticides. In general, no one may apply any pesticide product in a manner which may endanger the health, welfare or property of another person, or which is likely to pollute the state's air, soil or water. Under statutory rulemaking authority, the state environmental conservation department has adopted standards of particular relevance to agricultural workers, as outlined below.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF APPLICATORS — No person may use a restricted-use pesticide unless the person is certified as a commercial or private applicator, or is under the direct supervision of such an applicator. To qualify for commercial certification, the applicant must attend an approved training session or complete an approved course, and must pass a state-administered written or oral examination covering such topics as pesticide labeling, pesticide hazards and safety, pesticide application equipment and techniques, and pesticide-related laws and regulations. Applicants for certification as a private applicator must pass a similar test, or, as an alternative, must successfully complete an approved training course.

INSURANCE — No one may engage in the commercial or contract spraying or application of an insecticide, herbicide or rodenticide without having liability insurance, in an amount not less than \$500,000 per individual for bodily injury and not less than \$300,000 per incident for property damage.

APPLICATOR RECORDKEEPING — Certified commercial and private agricultural applicators must make a record of each application of restricted-use pesticides. The record must include the product's name and registration number, the date of application, the location of the application, the amount used, the applicator's name and certification number, the crop the product was used on, and related data. Commercial, custom and contract applicators of general-use pesticides are subject to similar recordkeeping requirements.

DRIFT CONTROL — It is illegal to apply a pesticide in a manner that results in pesticide drift. Pesticides may not be applied when the wind speed exceeds (1) the maximum wind speed specified on the product label, or (2) seven miles per hour if there is no maximum speed specified on the label.

PESTICIDE STORAGE AND DISPOSAL — Pesticide applicators must comply with detailed regulatory requirements governing the storage and disposal of pesticides and pesticide containers.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577). Representatives of the Department may, at reasonable times and with the consent of the owner or occupier, enter premises to investigate actual or suspected violations of the pesticide rules established under state law. This agency is empowered to issue compliance orders and to pursue civil action in the state courts against violators who fail to comply with such orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA PESTICIDE CONTROL LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-361 - 3-377

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-101 - 3-3-506

GENERAL SUMMARY: Chapter 2, Article 6 of the state agricultural statutes broadly governs the sale, processing, storage, transportation, handling and application of pesticides in Arizona, and authorizes the agriculture department to adopt specific rules regulating pesticides.

SPECIFIC TERMS AND CONDITIONS: Under the rulemaking authority referred to above, the department has adopted standards relating to pesticide applicators and general use of pesticides, as outlined below.

REGULATED GROWER PERMITS — Commercial growers of agricultural commodities who buy pesticides or contract for the application of pesticides on their crops are prohibited from ordering, purchasing or receiving any pesticide unless they have a valid regulated grower permit issued by the state.

APPLICATOR LICENSING — No person may apply pesticides for hire without being licensed by the state as a custom applicator. Among other prerequisites, issuance of a license requires successful completion of an examination on the laws and rules relating to the application and use of pesticides, pesticide safety, calibration of equipment, and actual use of application equipment. Custom applicators must also have prescribed liability insurance.

APPLICATOR CERTIFICATION — Apart from testing and insurance requirements, custom applicators must also be certified as commercial applicators (or have someone employed who is a certified commercial applicator), which entails an examination on such matters as pesticide labeling, pesticide safety and toxicity, protective equipment and clothing, poisoning symptoms, and first aid. Likewise, agricultural producers who intend to apply restricted-use pesticides to their crops must pass a similar examination and meet other requirements for certification as private applicators.

EQUIPMENT LICENSING — Equipment used in the commercial application of pesticides must be licensed prior to use for that purpose. The license must be displayed in plain sight on the equipment and must be removed any time the license of the applicator in control of the equipment is suspended, revoked or not renewed.

APPLICATOR RECORDKEEPING — After each application of a restricted-use pesticide, private agricultural producers must complete an application record on a state-approved form, documenting such information as the applicator's name, the name of the crop and number of acres treated, the name of the product used, the application rate and total volume per acre, the wind speed and direction, the date and time of treatment, and the location of the field treated.

PESTICIDE STORAGE AND DISPOSAL — No one may dump, store or leave unattended any pesticide or pesticide container at any place or under any condition where it presents a hazard to persons, animals or property.

GENERAL RESTRICTIONS ON PESTICIDE USE — It is illegal for anyone to use or apply a pesticide in a manner inconsistent with the product's labeling. Growers are generally forbidden to allow any employee not wearing protective clothing required by a pesticide label, to enter any field treated with the product prior to expiration of the assigned re-entry period. Before applying pesticides, growers must ensure that all persons and livestock under their supervision or control have been removed from the area to be treated.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578). This agency is authorized to conduct investigations, on complaint or on its own initiative, regarding violations of the pesticide control law. A copy of every such complaint filed with the agency must be forwarded by the agency to the state attorney general, who must be consulted before final disposition of each case to ensure that proper action is taken. Enforcement measures available to the agency include citation, suspension or revocation of the pesticide applicator's license, and civil money penalties. Violators may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Anyone who is adversely affected may bring civil action in state court against a person alleged to be in violation of the pesticide control law or its regulations, or against the enforcement agency for alleged failure to perform any non-discretionary duty under the law. However, no private action may be undertaken before 60 days after the complainant has filed a complaint with the agency and notified the alleged violator, or if within those 60 days the agency begins and diligently performs the duty which is the subject of the complaint, nor may private civil action be taken if the attorney general is diligently prosecuting the case before the agency or in state court.

Arkansas

ARKANSAS PESTICIDE USE AND APPLICATION ACT

STATUTORY CITATION: Ark. Code §§ 20-20-201 - 20-20-207

RELATED REGULATIONS: State Plant Board Circular 14

GENERAL SUMMARY: The Arkansas Pesticide Use and Application Act regulates the distribution, use and application of pesticides, to prevent unreasonable adverse effects on people and the environment. The state administering agency is authorized to adopt regulations covering licensing of pesticide applicators, storage and disposal of pesticides and pesticide containers, reporting of pesticide accidents, and related issues.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR LICENSING — It is illegal for anyone to engage in the business of applying pesticides on someone else's property without having a valid commercial applicator's license issued by the state. Among other conditions, a commercial license may not be issued until the applicant passes an examination demonstrating knowledge of pesticides and pesticide application practices. Similarly, no agricultural producer may apply any restricted-use pesticide to his or her own crops without being licensed as a private applicator and being certified as competent to use the intended product safely.

AERIAL APPLICATOR LICENSING — It is unlawful to apply pesticides from an aircraft unless the pilot has a current valid license issued by the state. The license application must include the pilot's FAA commercial or private pilot's certificate number

INSURANCE AND BONDING — A commercial applicator's license may not be issued until the applicant furnishes evidence of liability insurance, bonding or other acceptable financial responsibility, in an amount not less than \$100,000.

INSPECTION AND LICENSING OF EQUIPMENT — Equipment used in the commercial application of pesticides must be identified in the applicator's license application. At the time the application is approved, the licensing agency must issue a decal for each such piece of equipment, and the decal must be attached to the equipment before the equipment may be used.

PESTICIDE STORAGE AND DISPOSAL — No one may store or dispose of any pesticide or pesticide container in a way that would cause injury to humans, crops, livestock or wildlife.

SPECIAL RULES FOR USE OF CERTAIN HERBICIDES — Individuals and firms that apply products containing 2,4-D, MCPA, Glyphosate, Dicamba or Quinclorac for hire (1) must follow special operating rules limiting when, where and the conditions under which the products may be applied, (2) are subject to special recordkeeping requirements, and (3) may be required to obtain additional insurance or other financial security. Private agricultural producers who use hormone-type herbicides are also subject to special permit, operating and recordkeeping requirements.

REPORTING OF PESTICIDE ACCIDENTS — A person claiming damages from a pesticide application must file a written statement with the state agency within 45 days after the damages occurred. Failure to file a report of the damage does not preclude taking legal action against any party believed responsible, but refusal by the claimant to allow the agency or the pesticide applicator involved to observe the damages automatically bars any claim against the applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Division, Arkansas State Plant Board, Little Rock, Arkansas 72205 (501-225-1598). The State Plant Board is responsible for licensing of pesticide applicators and for monitoring applicators' compliance with state pesticide regulations. The Board is authorized to investigate complaints of pesticide misuse and may, among other functions, hold hearings, subpoena witnesses, and enter public or private property to inspect fields, equipment, storage areas and records. Legal action against violators may be pursued in court either by the Plant Board itself or by local prosecuting attorneys. The Act prescribes both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

STATE PEST CONTROL LAWS

STATUTORY CITATION: Cal. Food & Agric. Code §§ 11401–12408 RELATED REGULATIONS: Cal. Code Regs. Title 3, §§ 6000–6972

GENERAL SUMMARY: Division 6 of the Food and Agricultural Code regulates the use and application of agricultural pesticides in California, in part by requiring state licensing of agricultural pesticide users and applicators, local registration of users and applicators, maintenance of pesticide application records, and compliance with specified use and application standards. Included, also, are procedures for reporting damage resulting from pest control operations.

SPECIFIC TERMS AND CONDITIONS

STATE LICENSING -

Agricultural Pest Control Businesses — It is unlawful for any person to engage in the business of pest control for agricultural purposes, for hire, unless the person has an agricultural pest control license issued by the state. Among other conditions on the license application, the applicant must designate a valid qualified applicator licensee responsible for the pest control activities conducted out of the principal office and from each branch location. All applicants for an agricultural pest control license must submit the appropriate application and fees.

Qualified Applicator License — The principal location and each branch location of a licensed pest control business must have at least one person in a supervisory position who holds a qualified applicator license in the category or categories of pest control activities supervised by that person. A qualified applicator license is issued after the applicant successfully passes a core examination covering pesticide use laws and regulations and related safety precautions, and at least one pest control category exam.

FINANCIAL RESPONSIBILITY — As a condition for licensing, agricultural pest control businesses are required to prove the ability to pay damages for any illness, injury or property damage resulting from their work. This requirement may be in the form of liability insurance covering bodily injury up to \$100,000 per person and \$300,000 per occurrence, and property damage up to \$100,000.

REGISTRATION WITH COUNTY — Agricultural pest control businesses may not operate in any county in California without first registering with the county agricultural commissioner. Issuance, maintenance and renewal of county registration is contingent on, among other requirements, the suitability of the registrant's pest control equipment, the competence of the registrant's applicators, and the registrant's compliance with state and county pesticide laws, regulations and orders.

USE PERMITS — With few exceptions, restricted-use pesticides may be purchased and used only by or under the supervision of a certified private or commercial applicator. Furthermore, before restricted-use pesticides may be used for agricultural purposes, the owner or operator of the land or crop involved must obtain from the county agricultural commissioner a restricted material permit, the issuance of which is contingent on submission of prescribed information regarding the target property, the surrounding area, the projected dates of application, and anticipated application problems.

GENERAL STANDARDS OF CARE — Among many other restrictions and requirements enumerated in the regulations, each person who performs pest control operations must use pest control equipment which is in good repair and safe to operate, apply pesticides under climatic conditions suitable to assure safe and proper application, and exercise reasonable precautions to avoid contamination of humans, animals, property and the environment. A copy of the registered label for the product being used must be available at each treatment site.

RECORDKEEPING — Every licensed pest control business is required to keep a record of each pest control operation. Among other data, the record must include the date of the treatment, the name of the owner or operator of the treated property, the location of the property, the crop treated, the total acreage or units treated, the target pest involved, the pesticide used, the equipment employed, and the name of each person performing the treatment.

PESTICIDE USE REPORTS — In general, within 7 days after each application, the holder of a restricted material use permit must make a report of the application to the county agricultural commissioner, on a prescribed form.

PESTICIDE STORAGE AND DISPOSAL — Pesticides, pesticide containers, and equipment that has held a pesticide may not be stored, emptied, disposed of or left unattended in any way or at any place where they could present a hazard to people, animals, food, feed, crops or property. In no case may a pesticide be placed or kept in any container of a type commonly used for food, beverages or household products. Areas where pesticides are stored must be plainly posted with prescribed warning signs.

UNLAWFUL ACTS — It is illegal for pesticide users and applicators (1) to operate in a faulty, careless or negligent manner, (2) to refuse or neglect to comply with any provision of the state pest control laws or the associated regulations and orders, (3) to refuse or neglect to keep required records and make required reports, and (4) to make false or fraudulent claims regarding pesticides or pesticide application methods, or apply any worthless or improper pesticide product.

DAMAGE REPORTS — Anyone who claims any damage or loss from an application of pesticides must, within 30 days from the time of occurrence, file a report with the agricultural commissioner in the county where the damage or loss is alleged to have occurred. Failure to file a report, while neither an offense nor a bar to civil action for recovery of damages, is deemed under the law as evidence that no loss or damage occurred.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

AGRICULTURAL PESTICIDE USE NEAR SCHOOLS — In September 2016, the California Department of Pesticide Regulation proposed rules that would strengthen protections to children when agricultural pesticides are applied close to schools and child daycare facilities. According to DPR, the proposed rules would require growers to notify public K-12 schools, child daycare facilities, and county agricultural commissioners when certain pesticide applications are scheduled near a school site. In addition, certain pesticide applications near school sites would be prohibited at certain times. Once adopted, the rules are expected to take effect in September 2017.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100). This agency has charge of licensing pest control businesses and pesticide applicators in the state, and of ensuring their compliance with substantive pesticide use and application standards. The Department is authorized to order anyone to cease operation of any pest control equipment or facility that is found unsafe or otherwise unsuitable, or that is being operated by an incompetent or unqualified person or in an unsafe manner. Violators of these provisions are subject to administrative fines, civil liability, and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In addition to a multitude of other duties and authorities, county agricultural commissioners are responsible for registering pest control businesses in their respective jurisdictions, for monitoring registrants' operations, and for issuing restricted pesticide use permits. Commissioners also have authority to establish county regulations on the use and application of pesticides, subject to review by the Department of Pesticide Regulation. Like the Department, county agricultural commissioners may halt any pesticide operation determined to be unsafe or potentially hazardous, and may suspend or revoke any restricted material use permit, subject to state agency review. County agricultural commissioners are authorized to investigate pesticide-related complaints and damage claims, and must make a report on each such investigation available to the parties involved.

Colorado

PESTICIDE APPLICATORS' ACT

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-10-101 - 35-10-128

RELATED REGULATIONS: 8 Code Colo. Regs. 1203-2

GENERAL SUMMARY: The Pesticide Applicators' Act regulates the commercial application of pesticides, with the aim of preventing unreasonable adverse effects from such products on people and the environment.

SPECIFIC TERMS AND CONDITIONS

LICENSING — In general, it is unlawful for anyone (other than an agricultural producer on the producer's own property, or the employee of such a producer) to use or supervise the use of any restricted-use pesticide without a license or certification issued by the state. Commercial applicators for hire must pay an annual license fee of \$350 at the time of application and renewal.

EXAMINATION — Each applicant for a license or certification as a commercial pesticide applicator must satisfactorily pass a written general examination, as well as a written classification examination for the respective class of license or certification involved. To renew a license without examination, commercial applicators are required to earn continuing education credits in subject areas specified in the regulations.

INSURANCE — Commercial pesticide applicators for hire must obtain and keep in force liability insurance coverage in the minimum amount of \$400,000.

RECORDKEEPING — Applicators are required to keep adequate records with respect to each pesticide application they perform. Among the items to be recorded are (1) the name and address of the person for whom the application was made, (2) the crop or pest involved or other use for which the application was intended, (3) the place treated, (4) the application rate, (5) the pesticide product applied, (6) the dilution rate and whether the pesticide was applied in dust, granular or liquid form, and (7) the date the product was applied.

PROHIBITED ACTS — Among other acts, it is illegal for a commercial pesticide applicator to store, use or supervise the use of a pesticide in a manner inconsistent with labeling directions, or in a fraudulent, faulty, unsafe or negligent manner. Disposal of empty pesticide containers or unused materials negligently or unsafely is similarly prohibited.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056). The Department is authorized to inspect and analyze pesticide products being used anywhere in the state and any equipment utilized to apply such products. This agency has the right to enter public or private property for the purpose of any examination, sampling or inspection necessary to enforce these provisions. If an applicator is applying pesticides in violation of the Act, the Department may issue and enforce a stop-work order. Penalties for violations are limited to court-imposed fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

CONNECTICUT PESTICIDE CONTROL ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 22a-46 - 22a-66x

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22a-49-1 – 22a-65-1

GENERAL SUMMARY: The Connecticut Pesticide Control Act regulates the distribution, sale and use of pesticides in the state. The Act confers broad authority on the state environmental protection department to adopt pesticide standards in several regulatory areas.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Among other illegal practices under the Act, it is unlawful for anyone (1) to use, distribute, sell, transport, deliver or receive any pesticide that is not registered with the state, or any product that has been adulterated or misbranded, (2) to use any registered pesticide in a manner inconsistent with restrictions prescribed under the Act or inconsistent with labeling, or (3) to detach, alter, deface or destroy any pesticide labeling required under the Federal Insecticide, Fungicide, and Rodenticide Act.

REGISTRATION OF PESTICIDE APPLICATION BUSINESSES — No one may operate a pesticide application business without first obtaining a certificate of registration from the state.

CERTIFICATION OF APPLICATORS — It is unlawful for anyone to use or supervise the use of any restricted-use pesticide in Connecticut without a private or commercial certificate issued by the state, unless the use is under the direct supervision of a certified applicator. Before a certificate can be issued, each applicant must pass an examination demonstrating knowledge concerning the proper use of pesticides, the dangers involved, and the precautions to be taken in connection with their application.

APPLICATOR RECORDKEEPING — Private agricultural applicators are required to keep a record of every use of a restricted-use pesticide. The record must include the name of the applicator, the kind and amount of pesticide used, the date and place of application, and the crop and acreage treated. Similarly, application businesses and commercial applicators are obligated to make a record with respect to their use of and supervision of the use of pesticides, including the name and registration number of the commercial supervisor and commercial operator, the kind and amount of pesticide used, the date and place of application, the target pest, and the crop or site treated.

DISPOSAL OF PESTICIDES AND PESTICIDE CONTAINERS — It is illegal for anyone to dispose of a pesticide or pesticide container in such a manner as to endanger plant or animal life or the public health and safety. Pesticides may not be discarded into any public sewage disposal system.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369). The Department is authorized (1) to enter any establishment or other place where pesticides are used, stored, sold or distributed, (2) to observe the application of pesticides, (3) to inspect equipment or devices used to apply pesticides, (4) to request records, and (5) to take other measures to assure the safety of workers and the public at large against the adverse effects of pesticide exposure. The Act prescribes both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

PESTICIDE LAW

STATUTORY CITATION: Del. Code Title 3, §§ 1201-1240

RELATED REGULATIONS: Del. Admin. Code 3-601 §§ 1.0-22.6

GENERAL SUMMARY: Chapter 12 of the state agricultural statutes regulates the sale, use and application of pesticides in Delaware, by (1) requiring the registration of pesticide products manufactured, sold or used in the state, (2) imposing licensing and certification requirements on commercial pesticide applicators, (3) defining unlawful acts involving the handling and use of pesticides, (4) establishing recordkeeping and reporting responsibilities, and (5) prescribing penalties for violations. The pesticide law also gives the state agriculture department authority to adopt more specific pesticide standards to protect public health and the environment.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION OF COMMERCIAL APPLICATORS — No one may engage in the business of applying pesticides on someone else's land without being licensed to do so by the state. As a condition for receipt of a license, an applicant must be certified by examination as qualified to use the class or classes of pesticides for which certification is requested.

CERTIFICATION OF PRIVATE APPLICATORS — Private agricultural producers who intend to apply any restricted-use pesticide to their own crops must be certified by the state beforehand. Certification as a private applicator requires the producer to demonstrate practical knowledge of the pest problem and pest control practices associated with his or her farm operation and knowledge of the related legal responsibilities.

INSURANCE — The state agency may not certify any commercial agricultural plant pesticide applicator, or license any commercial pesticide application business, until the applicant has filed evidence of financial security. For agricultural and most other categories of pesticide operators, the security requirement may normally be met through purchase of a general liability insurance policy, in the amount of \$300,000 for bodily injury or death and \$100,000 for property damage resulting from the use or misuse of pesticides.

APPLICATOR RECORDKEEPING — Commercial pesticide applicators are required to make a record of each use of pesticides and to retain the record for at least 2 years from the date of application. Among other information, the applicator must record the identity of the formulation used, the dilution at which the product was applied and the per-acre rate of application, the date and specific area treated, the target pest involved, and the wind velocity, temperature and humidity at the site of application if the product label contains precautions regarding drift.

AVAILABILITY OF PRODUCT LABEL — Commercial applicators are required to have available, at the site of application, a copy of the label of the pesticide being used. Upon request, the applicator must provide information contained on the product label to any interested person at or adjacent to the site.

STORAGE AND DISPOSAL OF PESTICIDES — Pesticides must be stored out of the reach of children and in such a manner as to prevent contamination of food, feed or water. Used pesticide containers generally must be drained and triple-rinsed in accordance with state-prescribed procedures and disposed of at a solid waste facility.

PROHIBITED ACTS — Among other things, it is unlawful (1) to apply a restricted-use pesticide without a certified applicator in direct supervision, (2) to detach, alter or deface a pesticide label prior to purchase of the product by the consumer, (3) to refuse or neglect to keep required records, and (4) to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock or wildlife.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticides Management Section, Delaware Department of Agriculture, Dover, Delaware 19901 (302-698-4571). The Department is responsible for licensing and certification of pesticide applicators in the state, and for investigating complaints or suspected cases of pesticide abuse. Any person claiming injury or damage from a pesticide application should file a written report within 60 days of the alleged incident with the Department, which is obligated to investigate the allegations. In addition to civil liability for personal injury or property damage, violators of these provisions are subject to civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

FLORIDA PESTICIDE LAW

STATUTORY CITATION: Fla. Stat. §§ 487.011-487.175
RELATED REGULATIONS: Fla. Admin. Code R. 5E-9

GENERAL SUMMARY: The Florida Pesticide Law regulates the use and application of pesticides in the state, for agricultural and other purposes. The Act requires, in part, the annual registration of pesticide products, and the licensing and certification of pesticide applicators and compliance with standards governing their operations.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, it is unlawful for anyone to apply restricted-use pesticides in agricultural operations without a certified applicator's license issued by the state, unless the person is doing so under the direct supervision of a licensee. Certification for each classification of license requires successful completion of an examination evidencing adequate knowledge of the proper use and application of pesticides in each classification for which application for a license is made. Among other subjects, applicants must demonstrate competence as to (1) the proper use of equipment, (2) the environmental hazards involved in applying pesticides, (3) calculating the concentration of pesticides to be used under particular circumstances, (4) protective clothing and respiratory equipment required while handling and applying pesticides, (5) precautions in the disposal of containers, as well as the cleaning and decontamination of equipment, (6) applicable state and federal pesticide laws and regulations, and (7) general safety precautions. Licenses must be renewed and applicators re-certified every 4 years.

GROUNDS FOR DISCIPLINARY ACTION — A warning letter, license probation, license suspension or revocation, or an administrative fine may result from any of the following acts, among others, committed by a licensee: (1) applying pesticides in a manner inconsistent with the product label, (2) operating faulty or unsafe equipment, (3) operating in a faulty, careless or negligent manner so as to cause damage to property or persons, (4) applying any pesticide that is harmful to human beings to fields where individuals are working, (5) failing to disclose to the farm operator, at the time pesticides are applied to a crop, full information regarding potentially harmful effects on humans or animals and safe minimum re-entry times for workers or animals, (6) refusing or neglecting to keep and maintain records or make reports as required, (7) failing to report any known damage to property, or illness or injury to persons, caused by the application of pesticides, and (8) failing to maintain a current liability insurance policy or surety bond.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997). This agency is in charge of examining and licensing pesticide applicators in the state, and monitoring their compliance with the Department's rules implementing the provisions of the law outlined above. Any worker or other person who suffers injury or property damage stemming from application of a pesticide may file a written statement with the enforcement agency. The Department must investigate the alleged injury or damage and notify all concerned parties of its findings. If investigation reveals a violation of the law, the Department will determine an appropriate administrative action, which may include a warning letter, license probation, license suspension or revocation, or an administrative fine. Violators are also subject to criminal prosecution.

Georgia

GEORGIA PESTICIDE USE AND APPLICATION ACT OF 1976

STATUTORY CITATION: Ga. Code §§ 2-7-90 - 2-7-114

RELATED REGULATIONS: Ga. Comp. R. & Regs. Ch. 40-21

GENERAL SUMMARY: The Georgia Pesticide Use and Application Act establishes licensing requirements, recordkeeping standards, accident reporting responsibilities, and damage or injury complaint procedures, as a means of safeguarding the public against the potentially harmful effects of pesticides that are improperly used or applied.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No individual may purchase, use or supervise the use of any pesticide as a private or commercial applicator unless the individual is licensed by the state to do so, or is acting under the direct supervision of a person so licensed. Private applicators must attend training or pass a written examination before they can be certified. Similarly, issuance of a commercial applicator's license requires the applicant to demonstrate competency to apply pesticides safely, effectively and without any unreasonable adverse environmental effects, and to pay a five-year license fee. Persons who engage in the business of contracting for the application of pesticides must also be licensed, which requires (among other conditions) that they be bonded or insured or post a cash deposit to cover liability for damages as a result of their pesticide operations.

EXEMPTION — The pesticide applicator licensing provisions do not apply to any farmer applying pesticides classified for general use on the farmer's own land, or on neighboring land at the request of the neighboring farm operator.

PROHIBITED ACTS — No one may transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock or wildlife. Operating faulty or unsafe equipment, operating in a faulty, careless or negligent manner, or refusing or neglecting to keep and maintain required records or to make required reports is also illegal and constitutes grounds for suspension or revocation of a pesticide applicator's license.

RECORDKEEPING — Licensed commercial pesticide applicators and licensed pesticide contractors must maintain records with respect to each pesticide application. Such records must be made available to the state enforcement agency on request.

DAMAGE OR INJURY COMPLAINTS — Any person claiming damage or injury from a pesticide application may file a written claim with the state agency, on a form provided by the agency. To be considered timely, the claim must be filed within 60 days after the damage or injury occurs. After investigation, and in the event the investigation discloses that the complaint has merit, the agency will make its findings available to the complainant.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Program, Plant Industry Division, Georgia Department of Agriculture, Atlanta, Georgia 30334 (404-656-4958). The Department is responsible for examining and licensing pesticide applicators in the state, and for monitoring compliance of applicators with the statutory and administrative rules related to pesticide use and application. The Department must also investigate complaints of damages involving agricultural pesticides.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

HAWAII PESTICIDES LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 149A-1 - 149A-53

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 4-66-1 - 4-66-67

GENERAL SUMMARY: The Hawaii Pesticides Law regulates the sale and use of pesticides in the state, enumerates certain prohibited acts involving the use and application of pesticides, and authorizes the state agriculture department to adopt specific rules covering, among other matters, certification of pesticide applicators, recordkeeping and reporting.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — Among other specified offenses, it is unlawful for anyone in Hawaii (1) to use any licensed pesticide in a manner inconsistent with its label, (2) to use, store, transport or discard any pesticide or pesticide container in any manner which would have an unreasonable adverse effect on the environment, and (3) to use or apply restricted-use pesticides unless the user is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator, with a valid certificate issued by the state.

CERTIFICATION OF APPLICATORS — No one may apply any restricted-use pesticide in Hawaii without being certified by the state as a commercial or private pesticide applicator or without direct supervision by a certified applicator. Commercial certification requires, in part, that the applicant pass a written examination demonstrating knowledge of pesticide product labeling, pesticide toxicity, effective measures for preventing overexposure and injury, pesticide application equipment, application techniques, state and federal pesticide laws and regulations, and other subject matter. Similarly, private agricultural applicators must demonstrate an understanding of product labeling, agricultural pests, appropriate application equipment and methods, safety precautions, pesticide poisoning symptoms, and pesticide disposal methods.

APPLICATOR RECORDKEEPING — Commercial applicators are required to keep a record of every use of any restricted-use pesticide. Among other data, the record must include the name of the product applied, the name of the targeted pest, the amount and concentration of the pesticide used, the total area covered, the date of the application, the address or location of the treated site, and the name of the certified applicator.

STORAGE AND DISPOSAL OF PESTICIDES — No pesticide may be stored where food or feed is likely to become contaminated. Pesticides and empty pesticide containers may not be disposed of in any way which could create a hazard.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401). The Department is responsible for the certification of pesticide applicators in the state and for monitoring the use and application of pesticide products. Authorized representatives of the Department may enter any public or private property at any reasonable time to inspect application methods and equipment, to examine and collect samples of plants, soil and other materials, and to take other measures to enforce the state pesticide law. Any person who violates the law or any regulation issued under its authority may, upon the first violation, receive a written warning citing the specific violation and necessary corrective action. Civil or criminal penalties, however, ranging from a fine to a prison term, may be imposed for any infraction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

STATE PESTICIDE LAWS

STATUTORY CITATION: Idaho Code §§ 22-3401 - 22-3426

RELATED REGULATIONS: Idaho Admin. Code R. 02.03.03

GENERAL SUMMARY: Chapter 34 of Idaho's agriculture and horticulture laws regulates the registration, labeling, distribution, application and disposal of pesticides in the state, and authorizes administrative adoption of more specific standards to control the use of pesticide products.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may apply any pesticide in Idaho for hire without being licensed by the state as a professional applicator, and agricultural producers using restricted-use pesticides on their own crops must be licensed as private applicators. As prerequisites for licensing, professional pesticide applicators are required (1) to pass an examination to demonstrate knowledge of proper handling and application of pesticides, (2) to provide a bond, cash deposit or proof of insurance covering liability for damages resulting from handling or use of pesticides, (3) to pay a state license fee, and (4) to meet other prescribed conditions. Private agricultural applicators must successfully complete an examination.

APPLICATOR RECORDKEEPING — Professional applicators are required to keep a record of each pesticide application. The record must include, among other data, the name and address of the owner or operator of the property treated, the specific crop involved, the name of the pesticide used, the dilution or rate at which the substance was applied, the total amount of the product applied, and the date of application.

PROHIBITED ACTS — The following practices, among others, are generally unlawful:

- (1) Use of a pesticide product in a manner inconsistent with its labeling.
- (2) Operation of a faulty or unsafe pesticide spray apparatus, aircraft or other application device or equipment.
- (3) Application of pesticides in a faulty, careless or negligent manner.
- (4) Failure or refusal to maintain records or file reports as required under the pesticide laws.
- (5) Non-compliance with licensing requirements and any related duty prescribed by regulations authorized under Chapter 34.

DAMAGE CLAIMS — Anyone who suffers injury or damage resulting from the use or application of pesticides by another party may, within 60 days of such occurrence file a written report of loss with the state enforcement agency. The agency may investigate the complaint to determine the nature and extent of the purported injury or damage, and the agency must prepare a written report of its investigation. Copies of the report must be made available on request to any party with a financial interest in the matter.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613). The Department is in charge of licensing pesticide applicators in the state and monitoring compliance by licensed applicators with statutory and administrative requirements on the use and handling of agricultural pesticides. Representatives of this agency may enter any public or private premises at reasonable times for the purpose of observing the use and application of pesticides, inspecting records, equipment and storage facilities, sampling soil, pesticides or other materials, and investigating complaints of injury or damage. In connection with damage claim investigations, the Department is required to report all non-minor violations of the pesticide provisions to appropriate public authorities for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

ILLINOIS PESTICIDE ACT

STATUTORY CITATION: 415 Ill. Comp. Stat. §§ 60/1 - 60/30

RELATED REGULATIONS: 111. Admin. Code Title 8, Part 250

GENERAL SUMMARY: With the intent of minimizing adverse effects on the environment and preventing injury to human and animal life, the Illinois Pesticide Act regulates the labeling, distribution, use and application of pesticides in the state. Among other protective measures, the Act requires the certification and licensing of pesticide applicators and operators, defines a multitude of unlawful acts involving pesticides, and authorizes administrative adoption of specific standards necessary to assure safety in the use of pesticide products.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING —

Commercial Applicators — No one who owns or manages a pesticide application business may purchase, use or supervise the use of any pesticide without an annually renewable commercial applicator license issued by the state. Among other licensing prerequisites, a commercial applicator must be certified as having successfully demonstrated competence and knowledge regarding pesticide use; recertification for competence is required at least once every 3 years. Commercial applicator license applicants must also present evidence of financial responsibility, protecting persons who may suffer personal injury or property damage as a result of the applicant's pesticide operations, by posting a \$50,000 surety bond or purchasing a liability insurance policy providing coverage of at least \$100,000 for bodily injury and property damage, with an annual aggregate of not less than \$500,000.

Licensed Operators — No one employed to apply pesticides under the direction of a licensed commercial applicator may use any pesticide without a pesticide operator license. Among other conditions, a license may not be granted unless the operator is certified as to competence and knowledge regarding the use and application of pesticides.

Private Applicators — Farm operators may not apply or supervise the application of any restricted pesticide on their own crops without being certified as private applicators. Like commercial applicators, private applicators must be certified as competent and knowledgeable concerning pesticide use and must meet other licensing requirements prescribed in state regulations.

UNLAWFUL ACTS — Among many others, the following practices are violations of the Act:

- (1) Application of pesticides in a faulty, careless or negligent manner.
- (2) Use of a pesticide in a manner contrary to the product label.
- (3) Failure to keep required records or file required reports.
- (4) Handling, storing, using or disposing of pesticides or used pesticide containers in a way that would endanger human life, the environment, or food, feed or other products.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Regulation Division, Illinois Department of Agriculture, Springfield, Illinois 62794 (217-785-8312). The state Department of Agriculture has general responsibility for enforcing the Act, and more particularly as it applies to the use of pesticides in the production, storage and transportation of agricultural commodities and the use of pesticides applied by agricultural equipment. Representatives of the Department are authorized to enter public and private premises (1) to determine the facts in complaints of pesticide injury, misuse, mishandling or reported excessive pesticide exposure, (2) to observe pesticide use, and (3) to sample pesticides being applied and sample plants and soil being treated. The Department may bring action in the appropriate court to enjoin a violation or threatened violation of any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Illinois Environmental Protection Agency, Springfield, Illinois 62794 (217-782-3397). This agency enforces those sections of the Act intended to preserve air and water quality and prevent unreasonable contamination of land resources.

Indiana

PESTICIDE USE AND APPLICATION LAW

STATUTORY CITATION: Ind. Code §§ 15-16-5-1 - 15-16-5-71

RELATED REGULATIONS: 355 Ind. Admin. Code §§ 4-0.5-1 - 4-7-7

GENERAL SUMMARY: Chapter 5 of the state horticultural control laws makes state certification and licensing of the applicator a prerequisite for the lawful use of most agricultural pesticides in Indiana, defines various prohibited acts and practices involving pesticide products, and authorizes administrative adoption of additional restrictions and safeguards in the use of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING -

Pesticide Businesses — Anyone who owns, operates or manages a business engaged in using any pesticide for hire must obtain a license to do so. Among other requirements, licensed pesticide businesses generally must post a bond or have liability insurance with a coverage limit of at least \$300,000 for bodily injury and property damage, to protect persons who may suffer legal damages as a result of their pesticide operations.

Commercial Applicators — No one may apply or supervise the application of restricted-use pesticides, or any pesticide when applied for hire, without a license to do so. Such a license may not be issued until the applicant has paid an annual license fee and met the competency certification requirements applicable to that class of license.

Private Applicators — No one may use or supervise the use of any restricted-use pesticide on his or her own farm, or on the farm of the person's employer, without a private applicator's permit and without first being certified as competent to do so.

PROHIBITED ACTS — The state may deny, suspend, modify or revoke, or may refuse to renew, any pesticide license or permit — and may assess a civil penalty — if it is determined that the applicant, licensee or permit-holder has committed any of the following acts, among others:

- Used any registered pesticide in a manner inconsistent with its labeling, or in violation of federal or state restrictions on its use.
- Operated faulty or unsafe equipment.
- (3) Operated in a careless or negligent manner.
- (4) Failed or refused to maintain required records or to make required reports, or maintained false or fraudulent records.
- (5) Used or applied pesticides without the appropriate class of license or permit, if required.
- (6) Refused to comply with regulations adopted under authority of the pesticide use and application law, or with a lawful order of the enforcement agency.
- (7) Made false or fraudulent claims misrepresenting the effect of pesticide products or methods of application.
- (8) Used pesticides known to be ineffective, or used them in amounts known to be ineffective.
- (9) Made false or misleading statements in applying for a license, or during or after an inspection.

In addition, it is illegal to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, beneficial vegetation, crops, livestock or beneficial insects.

RECORDKEEPING — All commercial applicators or their employees are required to keep records of all applications of restricted-use pesticides and preserve such records for at least 2 years. Among other information, each record must include the name and address of the customer, the name and certification number of the applicator, the date and site of the pesticide application, the crop and pest involved, the name of the product used, and the amount applied. Private applicators are subject to comparable recordkeeping requirements.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492). This office is responsible for testing, certification and licensing of commercial pesticide businesses and commercial and private applicators in Indiana, and for monitoring compliance by licensees with these provisions. The state chemist's office may warn or cite an applicator for any violation of this law and, after opportunity for hearing, may assess a civil penalty and may deny, suspend, revoke or modify any provision of a license, permit or certification. The office may also take appropriate court action to enjoin a violation or threatened violation of the law or the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

PESTICIDE ACT OF IOWA

STATUTORY CITATION: Iowa Code §§ 206.1 - 206.34

RELATED REGULATIONS: Iowa Admin. Code 21.45.1 - 21.45.105

GENERAL SUMMARY: The Pesticide Act of Iowa governs the registration, sale, distribution, containment and application of pesticides in the state and includes, among others, provisions requiring the certification and licensing of pesticide applicators, and the reporting of pesticide accidents and losses. The state agriculture department is authorized to adopt more specific standards further regulating the use of pesticide products in Iowa.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply any pesticide in Iowa for hire without first passing a formal state-administered examination and being certified by the state administering agency as competent concerning pesticides and pesticide use. Likewise, agricultural producers who use restricted-use pesticides on their crops must be certified as private applicators and must be tested prior to certification.

LICENSING — Commercial pesticide applicators must be licensed by the state as a precondition for engaging in that business. Issuance of a license requires payment of a license fee and completion of an examination to demonstrate knowledge of application techniques and the nature and effect of the pesticides the applicant intends to use.

BONDING OR INSURANCE — The state agency will not issue a commercial applicator's license until the applicant has furnished evidence of financial responsibility, in the form of a surety bond or liability insurance policy covering damages resulting from the applicant's pesticide operations. The bond or insurance must be in an amount no less than \$100,000 each for property damage and public liability, or liability insurance with limits of \$100,000 per occurrence and \$300,000 annual aggregate.

APPLICATOR RECORDKEEPING — Every commercial applicator must keep a record of each application of pesticides. Among other information, the record must include the name and address of the landowner or customer, the date of the application, the name of the product used, the quantity of the product used and its concentration or application rate, and the temperature and wind velocity at the time of application.

DAMAGE OR INJURY CLAIMS — Any person claiming damages or injury from a pesticide application must file a report with the state agency on a prescribed form within 60 days after the date of the alleged incident. On receipt of a claim, the agency must inspect the purported damages, and if it determines that the complaint has merit, the agency must make such findings available to the complainant and to the person alleged to be responsible. With respect to any claim for damages against a licensed pesticide applicator, failure by the claimant to permit the state agency, the licensee, the bonding agency or the insurance carrier to inspect or examine the property or non-targeted organism alleged to have been damaged or injured will automatically bar the claim against the licensee.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Bureau, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319 (515-281-8591). The Department has responsibility for testing, certification and licensing of pesticide applicators in the state, and for periodic re-examination, re-certification and re-licensing. The Department is authorized to enforce compliance with the Act and the associated regulations, by entering public and private property for purposes of inspecting pesticide products, containers and application equipment, observing pesticide applications, and sampling soil, crops and non-targets for pesticide residues. In addition to suspension or revocation of an applicator's license for negligent operation and numerous other infractions, criminal penalties are also prescribed in the Act for violation of any of its provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

KANSAS PESTICIDE LAW

STATUTORY CITATION: Kan. Stat. §§ 2-2438a - 2-2480

RELATED REGULATIONS: Kan. Admin. Regs. §§ 4-13-1 - 4-13-65

GENERAL SUMMARY: The Kansas Pesticide Law governs the application and other use of agricultural pesticides and related toxic products in the state, by requiring the licensing of pesticide businesses and certification of commercial and private applicators, defining various unlawful acts involving pesticides, imposing recordkeeping duties on applicators, and establishing a damage claim process. The state agriculture secretary is authorized to adopt additional, more specific standards regulating the use of pesticides.

SPECIFIC TERMS AND CONDITIONS

PESTICIDE APPLICATION BUSINESSES — In general, no firm or individual may, for compensation, engage in the business of applying pesticides on the property of another without being licensed as a pesticide business. Among other prerequisites, licensing requires payment of an application or renewal fee and proof of financial responsibility, in the form of a surety bond or liability insurance covering potential damages from pesticide accidents.

COMMERCIAL APPLICATORS — With few exceptions, no one may apply any restricted-use pesticide without a commercial applicator's certificate, or unless working under the supervision of a certified applicator. Applicants for such a certificate must pay an application fee and pass a written examination evidencing adequate knowledge concerning the proper use and application of pesticides in the category for which the applicant has applied. The test contains, in part, elements on (1) the proper use of equipment, (2) pesticide hazards, including the effects of drift, meteorological conditions and precautions, the effect of pesticides on plants and animals, and other risks, (3) calculating chemical concentrations, (4) identification of pests, (5) protective clothing and equipment, (6) disposal of containers and decontamination procedures, and (7) state and federal pesticide laws and regulations.

PRIVATE APPLICATORS — In lieu of obtaining a commercial applicator's certificate, agricultural producers and certain other individuals intending to use restricted-use pesticides without compensation may apply for a private applicator's certificate. The state agency may grant such a certificate to applicants who (1) pay the required application fee, (2) pass an open-book examination indicating knowledge of pesticide problems, proper storage, handling and disposal procedures, pesticide labeling, pesticide use safety, and environmental considerations, and (3) meet various other conditions.

RECORDKEEPING — Each pesticide application business operating in Kansas must present to each customer for whom pesticide control services are performed a written statement of services showing, among other information, the name and address of the business and the customer, the pesticide used, the date and location of the application, and the wind direction and speed at the time of application. Comparable records are required to be maintained by certified commercial applicators not employed by or acting for a business licensee.

UNLAWFUL ACTS — It is unlawful for anyone to use pesticides in a manner inconsistent with the product label, to discard or store any pesticide or pesticide container in a manner which would cause injury to humans, vegetation, crops, livestock or wildlife, or to fail to comply with the Pesticide Law or its associated regulations. It is also illegal for anyone required to be licensed or certified under the law to knowingly operate faulty or unsafe equipment, to fail or neglect to keep required records or make required reports, or to use any method or material without considering the health, safety or welfare of the public.

DAMAGE CLAIMS — A person sustaining damage or injury from a pesticide application has 60 days after the date the damage or injury is discovered to submit to the state agency a written statement on a prescribed form, identifying the nature and extent of the damage and the name of the person alleged to be responsible, if known. Failure to submit a claim creates a rebuttable presumption that the alleged damage did not result from the pesticide application, but does not preclude the maintenance of any civil or criminal action.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide and Fertilizer Program, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6688). In enforcing these provisions, the Department and its agents may enter any premises at any reasonable time, in order to inspect equipment, sample soil or crops, inspect storage or disposal areas, and investigate complaints of injury to humans, crops or land. The agency may also subpoena records and compel the attendance of witnesses at hearings. Violation of any provision of the Pesticide Law by a licensee or certificate-holder may lead the Department to suspend or revoke such license or certificate.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Criminal prosecution for violations is the duty of county or district attorneys, or upon their refusal to act, the state attorney general.

Kentucky

KENTUCKY FERTILIZER AND PESTICIDE STORAGE, USE AND APPLICATION ACT OF 1996

STATUTORY CITATION: Ky. Rev. Stat. §§ 217B.010 - 217B.585

RELATED REGULATIONS: 302 Ky. Admin. Regs. 27:010 - 27:060

GENERAL SUMMARY: The Kentucky Fertilizer and Pesticide Storage, and Pesticide Use and Application Act regulates the use and application of insecticides, fungicides, herbicides, defoliants, desiccants, plant growth regulators, nematocides, rodenticides and other pesticides in the state, as well as the storage of fertilizers. Of particular relevance to agricultural worker safety, the Act requires licensing of pesticide applicators and operators, defines various unlawful acts involving pesticides and pesticide applicators, establishes procedures for filing and investigating pesticide-related damage claims, and authorizes adoption of related administrative regulations.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may engage in the business of applying pesticides to another party's land in Kentucky without first obtaining a license from the state authorizing such activity. Issuance of an applicator's license requires the applicant (1) to pay an annual license fee, plus an inspection fee for each aircraft and each unit of ground equipment to be licensed, and (2) to pass an examination demonstrating a working knowledge of proper use of pesticide equipment, the hazards involved in applying such substances (including their toxicity to plants and animals and the effects of drift), calculating appropriate concentrations, identification of pests, protective clothing and equipment, pesticide disposal and decontamination, and state and federal pesticide laws and regulations. Employees of pesticide applicators who intend to apply pesticides manually or as operators in charge of any pesticide equipment must also be licensed, under similar preconditions.

UNLAWFUL ACTS — Among other offenses defined in the law, it is illegal for any licensee (1) to refuse or neglect to keep required records or make required reports, (2) to operate unlicensed, faulty or unsafe equipment, or (3) to operate in a faulty, careless or negligent manner. Furthermore, it is a crime for anyone, licensed or unlicensed, (1) to use any registered pesticide in a manner not in accordance with its label, (2) to purchase, use or supervise the use of a pesticide unless the individual is certified in a classification permitting the individual to do so, or (3) to discard or store any pesticide or pesticide container in a manner that would cause injury to humans, vegetation, crops, livestock, wildlife or pollinating insects.

DAMAGE CLAIMS — Any person claiming damages from a pesticide application may file a written statement with the state enforcement agency on the prescribed form. Under most circumstances, to be considered timely the statement must be filed within 60 days after the date the damages occurred. The agency will immediately notify the applicator involved, the owner or lessee of the land where the application was targeted, and any other person who may be charged with responsibility for the damages claimed. Failure by the claimant to allow the applicator or any representative of the applicator (such as a bonding agent or insurance carrier) to observe the property or non-target organism alleged to have been damaged automatically bars any claim against the applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agriculture Branch, Division of Environmental Services, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture, Frankfort, Kentucky 40601 (502-782-9240). This agency both administers the licensing of pesticide applicators in the state and enforces compliance with the substantive standards governing their activities. Agents of the Department have authority to enter upon any public or private premises at reasonable times in order to inspect licensed or unlicensed pesticide equipment, inspect lands exposed to pesticides, inspect storage and disposal sites, investigate reports of injury to humans or land, and sample pesticides being applied or to be applied. Among the remedies available to the Department in response to a violation of the Act or its associated regulations are (1) suspension, revocation or non-renewal of an applicator's license or equipment license, and (2) recovery of civil penalties against the violator in state court. The Act prescribes criminal penalties to which offenders are also subject.

Louisiana

LOUISIANA PESTICIDE LAW

STATUTORY CITATION: La. Rev. Stat. §§ 3:3201 – 3:3391.12

RELATED REGULATIONS: La. Admin. Code Title 7, Part XXIII

GENERAL SUMMARY: The Louisiana Pesticide Law sets up a state pesticide registration program, regulates the sale and use of pesticides in Louisiana, establishes general procedures and authorizes adoption of specific rules for the safe treatment and disposal of pesticide wastes, and regulates structural pest control in the state.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF PRIVATE APPLICATORS — No agricultural producer may apply any restricted-use pesticide on his or her own crops without being certified by the state as a private applicator. Certification may be issued only after the applicant satisfactorily demonstrates knowledge of the laws, regulations and safety practices applicable to restricted-use pesticides. In addition to their own use of such compounds, certified private applicators are authorized to supervise the application of restricted-use pesticides by competent uncertified individuals.

CERTIFICATION OF COMMERCIAL APPLICATORS — It is unlawful for anyone to apply or supervise the application of any restricted-use pesticide commercially unless the individual has proper certification from the state to do so. The granting of certification is conditional on the applicant's successful completion of an examination evidencing knowledge and competency in the safe use and application of restricted-use products. Certified commercial applicators may supervise the ground application of such products by competent uncertified individuals but may not supervise aerial application of any pesticide by any uncertified person.

LICENSING OF OWNER-OPERATORS — No one may own or operate a business engaged in the application of pesticides for a fee unless the individual is properly licensed by the state. All aerial applicators employed by an owner-operator must be certified commercial applicators, and all ground applicators employed by an owner-operator must be certified commercial applicators or must work under the direct supervision of a certified commercial applicator.

BONDING, INSURANCE, AND DAMAGE CLAIMS — Prior to obtaining a license, each owner-operator must post a surety bond or secure liability insurance, in either case in an amount ranging from \$25,000 to \$50,000, depending on the scope of intended operation. Any person who suffers damages caused by any action of an owner-operator in connection with application of a pesticide may sue on the bond or insurance in any court of competent jurisdiction to recover the damages.

RECORDKEEPING — Owner-operators must keep records on each application of pesticides and must preserve such records for at least 3 years thereafter. The records must include such information as the name of the pesticide applied, the date and place of application, and the rate at which the substance was applied.

VIOLATIONS — Among numerous other offenses specified in the law, it is illegal for anyone involved in the application or use of pesticides in Louisiana (1) to knowingly operate faulty or unsafe equipment, (2) to operate in a faulty, careless or negligent manner, (3) to refuse or neglect to keep and maintain required records, (4) to apply a restricted-use pesticide without the appropriate certification or without required supervision, (5) to allow the application of a restricted-use pesticide by uncertified personnel without the presence of a certified applicator, when such presence is required, and (6) to apply any pesticide in a manner inconsistent with the product's label.

COMPLAINTS — A person who has suffered damages as a result of an action by anyone regulated under this law may file a damage complaint with the state enforcement agency, on the prescribed form, within 15 days of the alleged occurrence or the discovery of the damage, whichever occurs later. The right to bring suit for damages against the party or parties alleged to be responsible (including a suit on the bond or insurance of any owner-operator involved) will not be adversely affected by the claimant's failure to file a timely claim with the state agency, but refusal to permit the agency, the alleged offender or a representative such as a bonding agent or insurer to inspect the property or non-target organisms alleged to have been damaged will automatically bar an administrative claim against an applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476). The Department is responsible for testing, certification and licensing of pesticide applicators and owner-operators in the state, and for enforcing compliance with the rules and regulations governing their operations. With a duly executed search warrant, agents of the Department may investigate the circumstances of any suspected or reported violation of the Louisiana Pesticide Law on private property. Investigative authority also includes the right to subpoena witnesses and documents. Upon formal hearing, the Department may suspend, revoke or refuse to renew the license or certification of anyone found to have violated any of the law's provisions and may impose money penalties against violators when deemed appropriate.

Maine

BOARD OF PESTICIDES CONTROL LAW

STATUTORY CITATION: Me. Rev. Stat. Title 22, §§ 1471-A – 1471-X

RELATED REGULATIONS: 01 026 Me. Code R. Chs. 10 - 90

GENERAL SUMMARY: Chapter 258-A of the state health and welfare statutes (1) governs the sale and use of chemical insecticides, fungicides, herbicides and other chemical pesticides, and (2) establishes a state board to develop more specific pesticide standards and regulations and to enforce compliance.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — In general, no commercial applicator or spray contracting firm may use or supervise the use of any pesticide in Maine without prior certification by the state. Similarly, private applicators are forbidden from using or supervising the use of any limited- or restricted-use pesticide without first being certified by the state to do so, unless working under the direct supervision of a certified applicator. Certification for each category of pesticide application activity requires payment of a prescribed fee and demonstration of an appropriate level of knowledge regarding pesticide use, related hazards and necessary precautions. In addition, commercial applicators, spray contracting firms and certain private applicators must provide proof of financial responsibility when applying for or renewing certification.

EMPLOYEE SAFETY — Certified pesticide applicators (including private agricultural producers) must acquaint their employees and those working under their direction with the hazards involved in handling the products used and must instruct them in the proper steps to be taken to avoid those hazards. Applicators must provide their employees with any necessary safety equipment prescribed on the pesticide label.

PESTICIDE STORAGE AND DISPOSAL — Whether in sealed or open containers, unused pesticides must be kept in a secure enclosure and maintained so as to prevent unauthorized use or mishandling.

APPLICATION WITH POWERED EQUIPMENT — In order to minimize drift of pesticides onto non-targeted property, the state pesticide regulations contain detailed standards for the application of pesticides by motorized equipment. Before and during pesticide spray activities, applicators must monitor the equipment used, weather conditions, the boundaries of the area to be treated, surrounding property, and other factors. The occupants of certain sensitive areas (including housing) within 500 feet of a pesticide target area may request prior notification of applications involving power equipment. Under no circumstances may pesticides be applied when wind speed in the area exceeds 15 miles per hour.

RECORDKEEPING — Commercial applicators and spray contracting firms must maintain records indicating, in part, the type and amount of each pesticide used and the area of use. Such records must be safeguarded for at least 2 years.

PROHIBITED ACTS — The state enforcement agency may suspend, revoke or refuse to renew certification if the applicator has, among other acts, used or supervised the use of pesticides applied in a careless, negligent or faulty manner, or in a manner potentially harmful to the environment or to the public health, safety or welfare.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731). The Board is responsible for certification of pesticide applicators in the state and for monitoring their professional activities. For this purpose, representatives of the Board are authorized to enter any public or private premises at reasonable times to inspect application equipment, to inspect pesticide storage and disposal areas, to investigate complaints of injury or damage from pesticides, and to sample pesticides and pesticide residues on crops, soil, water or elsewhere in the environment. Anyone who violates any of the statutory provisions or the regulations issued thereunder is subject to a fine of up to \$500 for the first offense and a fine of no less than \$500 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

PESTICIDE APPLICATOR'S LAW

STATUTORY CITATION: Md. Code, Agric. §§ 5-201 - 5-211

RELATED REGULATIONS: Md. Code Regs. 15.05.01

GENERAL SUMMARY: The Pesticide Applicator's Law regulates the application of pest control products in Maryland, by (1) requiring certification of pesticide applicators and training of their employees, (2) requiring proof of financial responsibility of commercial applicators, (3) prescribing general application practices, and (4) authorizing the adoption of detailed regulations governing pesticide use, disposal procedures, and recordkeeping.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — Individuals who are in the business of applying pesticides to other people's property for hire, as well as private agricultural producers who apply restricted-use pesticides to their own crops, must have a certificate issued by the state, affirming their competence to use and apply such products safely. Applicants for any commercial-class certificate must demonstrate competence by passing a written examination, while private applicators have the option of enrolling in a state-approved training course.

INSURANCE — Each business performing pest control work must provide the state agency with proof of financial responsibility by obtaining and maintaining liability insurance. The policy must provide bodily injury coverage of at least \$100,000 per person and \$300,000 per occurrence, and property damage coverage of at least \$15,000 per occurrence and \$30,000 annual aggregate.

EMPLOYEE TRAINING PROGRAMS — Licensees and permit-holders must register all of their employees who perform pest control operations with the state enforcement agency. Within 30 days after employment and before registration, each such employee (other than a certified applicator) must successfully complete a state-approved training program.

GENERAL APPLICATION PRACTICES — All commercial applications of any pesticide must be under the supervision of a certified applicator, and private agricultural application of restricted-use pesticides must be performed by or under the supervision of a certified private applicator. In both cases, the certified applicator is responsible and liable for the application. It is illegal for anyone to use, apply or recommend use of a pesticide other than as specified by the label, which includes the material attached to the container, information furnished with the product, or any information contained in the approved state registration.

RECORDKEEPING — Each licensee and permit-holder must keep, and preserve for at least 2 years, a record of each pesticide application. The record must include the applicator's name, the date of the application, the site where the application was made and the pest involved, the target area address and the name of the owner or tenant, the name of the pesticide product and its EPA registration number, the concentration and rate of application, the total amount of the product used, the type of equipment used, and the wind speed and direction at the site when the product was applied.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Regulation Section, Maryland Department of Agriculture, Annapolis, Maryland 21401 (410-841-2766). In addition to its licensing and certification role under the Pesticide Applicator's Law, this agency may sample any pesticide, inspect any device or equipment used in pest control operations, and observe any pesticide application performed by a certified applicator or anyone under the supervision of a certified applicator. Anyone who violates any provision of the law is subject to criminal charges, as well as civil penalties of up to \$2,500 for a first offense and \$5,000 for repeat offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who has suffered injury from a pesticide application has a right to bring civil action to recover damages, utilizing private legal counsel or a public legal service provider.

Massachusetts

MASSACHUSETTS PESTICIDE CONTROL ACT

STATUTORY CITATION: Mass. Gen. Laws Ch. 132B, §§ 1 – 16 RELATED REGULATIONS: 333 Mass. Code Regs. 2.00 – 14.00

GENERAL SUMMARY: The Massachusetts Pesticide Control Act regulates the sale, distribution and use of pesticides in the state and requires, among other measures, certification and licensing of applicators and compliance with pesticide-related regulatory standards adopted by the state food and agriculture department.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING — No individual may apply general-use pesticides commercially unless the individual is appropriately licensed or certified by the state. Likewise, no one may use any restricted-use pesticide unless he or she is certified as a commercial or private applicator, or is a licensed applicator working under the direct supervision of an appropriately certified commercial or private applicator. Each applicant for certification or licensing must file an annual application, pay an annual application fee, demonstrate competence with respect to the use and handling of pesticides, maintain required levels of liability insurance covering injuries and damages caused by their pesticide operations, and continue to attend state-approved educational courses or seminars.

APPLICATOR RECORDKEEPING — All applicators are required to keep a record of each pesticide application. Among other information, the record must include the date and place of application, the name and registration number of the product used, the amount of the product used, the purpose of the treatment, and the method of application. Each applicator must also record the amount of liability insurance carried and the name of the insurer, and the illnesses or injuries caused or suspected as having been caused by pesticides and reported to the applicator.

PRIOR NOTICE OF CERTAIN APPLICATIONS — No restricted-use pesticide bearing the signal word "Danger" on the label may be applied to an agricultural crop within 50 feet of a public right-of-way unless notice of the application is given beforehand. Between 2 and 24 hours prior to the application, signs must be posted at least every 200 feet along the perimeter of the area to be treated, and at every principal entrance to the area, facing the public way. Among other content and visibility requirements, the signs must be at least 14 inches by 16 inches in size and contain the words "Danger," "Pesticides," and "Keep Out" — in English and Spanish, and in letters at least one inch in height. The signs must be removed no sooner than 48 hours after the application, and no sooner or later than the expiration of the restricted-entry period specified on the pesticide label.

GENERAL PROHIBITIONS — Among other unlawful activities defined in the Act, no one may use a registered pesticide in a manner that is inconsistent with its labeling or restrictions imposed by the state enforcement agency. It is also illegal for any person certified or licensed as a pesticide applicator to violate any provision, condition, term or restriction of the particular class of certification or license issued to such person.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S.—Pesticides & Agricultural Chemicals—General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781). Inspectors and other authorized representatives of the Department have the right to enter any premises, at reasonable times and with a properly executed search warrant, for the purpose of investigating specific complaints or suspected violations of the Pesticide Control Act. Both civil money penalties and criminal fines and imprisonment may be imposed on persons found to have violated any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (PESTICIDE CONTROL)

STATUTORY CITATION: Mich. Comp. Laws §§ 324.8301 - 324.8336

RELATED REGULATIONS: Mich. Admin. Code R. 285.636.1 - 285.636.17 and 285.637.1 - 285.637.17

GENERAL SUMMARY: Part 83 of the Natural Resources and Environmental Protection Act regulates the distribution, sale and use of pesticides in Michigan, in part by requiring the certification of applicators, defining numerous mandatory practices and unlawful acts involving pesticide compounds, and authorizing adoption by the state agriculture department of more explicit pesticide control

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply general- or restricted-use pesticides without being certified by the state as competent to do so safely. Certification of commercial applicators requires the applicant to complete a written examination designed to test the applicant's knowledge of the hazards posed by pesticides and safe handling and application practices. A private applicator intending to use any restricted-use pesticide product for agricultural purposes must also obtain a certificate, a prerequisite for which includes completion of either (1) a course of self-directed study and an examination, (2) classroom training and an examination, or (3) an oral fact-finding interview conducted by the state enforcement agency.

APPLICATOR QUALIFICATIONS — Commercial applicators are required to have either (1) a baccalaureate degree from a recognized college or university in a discipline relevant to pest control and at least one season of service as an employee of a commercial applicator, or (2) at least 2 seasons of experience as an employee of a commercial applicator.

FINANCIAL RESPONSIBILITY — Licensed commercial applicators are required to maintain liability insurance for bodily injury and property damage arising from pesticide applications. In general, minimum coverage for each occurrence must be no less than \$100,000 for bodily injury and \$25,000 for property damage. Policies written for aerial applicators may have a combined single limit of \$300,000.

RECORDKEEPING — Commercial applicators must maintain a record of each application of restricted-use pesticides for not less than 3 years from the date of application and must make those records available to the state agency on request. The record must show the name and amount of the pesticide used, the purpose of the application, the date and place where the material was applied, and the method and rate of application. Similar records on each use of a general-use pesticide must be maintained for at least one year.

STANDARDS FOR PESTICIDE USE — Among many other regulatory requirements, (1) no pesticide may be used in a manner inconsistent with its label, (2) applications must be made in a manner that prevents off-target discharges, (3) application equipment must be in sound mechanical condition, properly calibrated and equipped with shut-off valves, and (4) applications must not occur when weather conditions would result in off-target drift.

PERSONAL PROTECTIVE EQUIPMENT — Commercial applicators must follow pesticide label directions regarding use of personal protective equipment, and must follow state-prescribed requirements for the use of protective clothing, footwear and gloves.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939). The Department is responsible for certification of pesticide applicators and licensing of commercial pesticide application businesses. In addition, representatives of the Department are authorized to enter public and private property where pesticides are used, to inspect pesticide application equipment, to observe pesticide applications, and to obtain samples. The Department has the power to order any applicator to cease the use of a pesticide when it appears the product is being or has been used unsafely or in contravention of the law, to order cessation of any other prohibited conduct, and to impose civil money penalties for violations. Violations are also punishable as misdemeanor offenses.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

PESTICIDE CONTROL LAWS

STATUTORY CITATION: Minn. Stat. §§ 18B.01 - 18B.39

RELATED REGULATIONS: Minn. Admin. R. 1505.0830 - 1505.2080

GENERAL SUMMARY: The state pesticide control laws regulate the sale and use of pesticide products in Minnesota, in part by (1) requiring the licensing of commercial and private applicators, (2) imposing bonding, insurance and recordkeeping requirements on commercial applicators, (3) defining certain prohibited uses of pesticides, and (4) establishing procedures for private requests for inspections related to pesticide applications.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — No one may use or supervise the use of any pesticide for hire without a commercial applicator's license issued by the state. Likewise, farm operators who use restricted-use pesticides in their own agricultural operations must be certified as private applicators, which generally requires that each applicant undergo prescribed training and receive subsequent instruction or information to assure continuing competency and ability to use restricted pesticides properly.

FINANCIAL RESPONSIBILITY — Prior to issuance or renewal of a commercial applicator's license, the applicant must post a performance bond or secure insurance, in either case establishing assets of at least \$50,000 to cover liability for damages associated with the applicant's pesticide operations.

PROHIBITED USE OF PESTICIDES — No one may use, store, handle or dispose of a pesticide, pesticide container, or pesticide application equipment in a manner inconsistent with product labeling, in any way that could endanger humans or damage crops and animals, or in such a way as to adversely affect the environment. It is illegal to direct a pesticide on any property beyond the boundaries of the target site, to damage adjacent property as a result of a pesticide application, or to directly apply a pesticide on a human or expose a worker in an immediately adjacent open field.

SAFEGUARDS AT APPLICATION SITES — A person may not allow a pesticide or unrinsed pesticide container to be stored or to remain at any site without adequate safeguards to prevent the movement or escape of the material from the site.

POSTING — If a pesticide label prescribes a specific period of hours or days before it is safe for human re-entry into an area following treatment with the product, the person applying the pesticide must post warning signs in the field or other areas where the product has been applied, in accordance with label instructions and state regulations. Fields treated through irrigation systems must be posted throughout the period of treatment.

RECORDKEEPING AND REPORTING — Each licensed commercial applicator must maintain a record of all pesticide treatments, to include such items as the date and time of treatment, the material and dosage used, the number of units treated, the location of the target site, the wind velocity and temperature at the time and place of application, the name and address of the customer, and the name and address of the applicator.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Regulation, Inspection and Enforcement Division, Minnesota Department of Agriculture, St. Paul, Minnesota 55155 (651-201-6333). The Department is responsible for licensing and certification of pesticide applicators in the state, and for monitoring their operations to ensure compliance with the statutory and regulatory provisions applicable to those activities. Agents of the Department have access at reasonable times to all places where pesticides are used, stored or disposed of, and may inspect such premises, observe the use and application of pesticides, and investigate complaints. The agency is authorized to issue written warnings, issue stop-use orders, and take other administrative measures to remedy violations of the pesticide control laws. The Department may request county attorneys or the state attorney general to bring civil action to stop any violation or threatened violation of the pesticide control laws. Violators are subject to both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

MISSISSIPPI PESTICIDE APPLICATION LAW OF 1975

STATUTORY CITATION: Miss. Code §§ 69-23-101 - 69-23-135

RELATED REGULATIONS: 2 Miss. Admin. Code 1-3-09

GENERAL SUMMARY: The Mississippi Pesticide Application Law provides for the certification of applicators of restricted-use pesticides in the state, imposes certain operational restrictions and duties on pesticide applicators, and authorizes the state agriculture department to adopt additional regulatory controls over the use of pesticide products.

PROVISIONS APPLICABLE TO AGRICULTURE

CERTIFICATION AND LICENSING — Except for aerial pesticide and herbicide applicators, who are licensed under separate statutory authority, it is illegal for anyone to use or apply restricted-use pesticides in Mississippi without having been certified or licensed under the Pesticide Application Law. As a condition for certification, commercial and private applicators must demonstrate, by written or oral examination, competency and knowledge with respect to the proper use of pesticides in the particular use category for which certification is sought.

PROHIBITED ACTS — Among other practices, it is unlawful for a licensed or unlicensed applicator (1) to operate in a faulty or negligent manner, (2) to knowingly operate faulty or unsafe equipment in such a manner as to cause damage to persons or property, (3) to refuse or neglect to keep required records or make required reports, or (4) to fail or refuse to comply with rules or orders issued by the state enforcement agency.

RECORDKEEPING — Except for private applicators and applicators licensed under separate authority, applicators certified under these provisions must keep complete and accurate records of all work performed and must retain such records for at least 2 years. At a minimum, each record must include the location where each pesticide was applied, the date of application, the name and amount of the chemical used, and the target pest involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIMARY ENFORCEMENT AGENCY – Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390). In addition to its licensing function under the Pesticide Application Law, the Department may enter any public or private property at reasonable times to investigate a specific complaint of injury resulting from application of a restricted-use pesticide or to monitor compliance with the law and the associated regulations. The Department may suspend, revoke or refuse to renew the certification of any licensee or certificate-holder found to have violated these provisions, and may petition the courts to enjoin any such infraction. Violators are also subject to criminal prosecution.

Missouri

MISSOURI PESTICIDE USE ACT

STATUTORY CITATION: Mo. Rev. Stat. §§ 281.005 - 281.116

RELATED REGULATIONS: Mo. Code Regs. Title 2, §§ 70-25.010 - 70-25.180

GENERAL SUMMARY: The Missouri Pesticide Use Act regulates the handling, application and disposal of pesticide products in the state, in part by requiring the licensing of applicators, establishing a damage claim filing procedure, and authorizing administrative adoption of additional controls over the use of pesticides in the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Among many others, the following categories of pesticide applicators are required to be licensed:

Certified Commercial Applicators — Anyone who charges a fee or receives compensation to apply or supervise the use of any pesticide in Missouri must first be licensed by the state as a certified commercial applicator. As a precondition for licensing, applicants must pass examinations demonstrating competence to apply pesticides safely and effectively and knowledge of applicable regulatory standards. Applicants must also pay an annual license fee of \$50.

Certified Private Applicators — Persons who use or supervise the use of restricted-use pesticides for agricultural purposes on their own land, or on someone else's land without compensation, must be licensed and certified as private applicators. Certification requires attendance at a state-administered or online course of instruction covering the use, handling, storage and application of restricted-use pesticides.

Non-Commercial Applicators — Individuals who are not regarded as private applicators and who use restricted-use products without compensation or profit on their own or their employer's land, are required to be licensed as certified non-commercial applicators. A license of this type necessitates, in part, completion of examinations to demonstrate competence in the proper use of pesticides under the classification for which licensing is sought, and knowledge of applicable regulatory standards.

FINANCIAL RESPONSIBILITY — Prior to licensing, a commercial pesticide applicator must present evidence of having secured a surety bond or liability insurance of at least \$50,000, protecting persons who may suffer legal damages as a result of the applicator's operations.

STORAGE AND DISPOSAL OF PESTICIDES — It is illegal to discard, transport or store any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

RECORDKEEPING — Commercial applicators must keep a record of each application of any general- or restricted-use pesticide, and must maintain the record for a period of 3 years from the date of application. At a minimum, the record must include the name and address of the customer, the location of the pesticide treatment, the target pests involved, the kind of pesticide applied, an estimate of the amount of pesticide used, and the date of the application. Non-commercial applicators applying restricted-use products are subject to comparable recordkeeping requirements.

DAMAGE CLAIMS — Any person who claims to have been damaged or injured as a result of an application of pesticides, and who requests an investigation by the state enforcement agency, must file a report of the incident with the state agency within 30 days after the date the damage is alleged to have occurred. The agency may inspect the damages and must make a report of the investigation available to the parties involved. In no case does failure to file a damage claim bar any criminal or civil action against anyone responsible for the misuse of a pesticide or any other violation of the Act.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Pesticide Control, Missouri Department of Agriculture, Jefferson City, Missouri 65102 (573-751-5504). The Department is responsible for testing, certification and licensing of pesticide applicators in the state, and for monitoring their compliance with applicable standards and procedural requirements authorized by the Act. With the owner's permission, representatives of the Department may enter private property at reasonable times to inspect land and equipment, observe pesticide applications, and investigate specific complaints. The Department is authorized to suspend, revoke or refuse to renew the license of any applicator who has violated the Act or the Department's regulations. Violations are classified as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

MONTANA PESTICIDES ACT

STATUTORY CITATION: Mont. Code §§ 80-8-101 – 80-8-401

RELATED REGULATIONS: Mont. Admin. R. 4.10.101 - 4.10.1808

GENERAL SUMMARY: The Montana Pesticides Act controls the use of pesticide products in the state, in part through the licensing of pesticide applicators and operators, and the authorization of specific rules relating to application practices, financial responsibility, recordkeeping, and other matters.

SPECIFIC TERMS AND CONDITIONS

LICENSING -

Farm Applicators — Individuals who apply pesticides to their own crops must obtain a special-use permit prior to purchasing and using any restricted-use pesticide. To qualify for an initial five-year permit, farm applicators must either pass a written examination or attend a state-approved training course, to assure the applicant's practical knowledge regarding agricultural pests, pesticide product labeling, application procedures, environmental considerations, and pesticide poisoning symptoms and accident procedures. Farm applicators must re-qualify for renewal of the permit by attending a 6-hour refresher course.

Commercial Applicators — It is illegal for anyone to engage in the business of applying pesticides for any other person without first obtaining an annual license from the state to do so. Before such a license is issued, the applicant generally must pass a written examination to assure the person's competency to use pesticides safely and effectively, must submit proof of financial responsibility, and must meet other licensing requirements.

GENERAL OPERATING PRACTICES — The state enforcement agency may modify or revoke, or refuse to grant or renew, the license or permit of an applicator who has (1) applied a pesticide without having a current and appropriate license or permit, (2) operated in a faulty, careless or negligent manner, (3) operated faulty or unsafe equipment, (4) refused or neglected to comply with the Act, the associated regulations or a lawful order of the state agency, (5) refused or neglected to keep required records or make required reports, or (6) used or applied a registered pesticide in a manner inconsistent with its labeling.

In addition, it is unlawful for anyone (1) to handle, transport or store pesticides or pesticide containers in such a way as to endanger people, food, other products, or the environment, (2) to apply or attempt to apply a pesticide contrary to label instructions, or (3) to discard any pesticide or pesticide container in such a manner as to cause injury to humans, domestic animals or wildlife, or to pollute any waterway.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Services Bureau, Montana Department of Agriculture, Helena, Montana 59601 (406-444-5400). This agency is responsible for licensing of pesticide applicators in the state, and for enforcing their compliance with the Pesticides Act and related regulations. With a warrant or the consent of the inhabitant or owner, agents of the Department have authority to enter any public or private property in order to inspect pesticides, pesticide application equipment and facilities, application records, and actual or reported damages caused by pesticides. Similarly, the Department may observe the use, application, storage or disposal of any pesticide product anywhere in the state. The Act prescribes both civil and criminal penalties for persons found in violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

PESTICIDE ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 2-2622 - 2-2659

RELATED REGULATIONS: 25 Neb. Admin. Code, Ch. 2

GENERAL SUMMARY: With the legislative aim of protecting human health and the environment, the Pesticide Act regulates the labeling, distribution, storage, transportation, use, application and disposal of pesticides.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION OF APPLICATORS — No one may use a restricted-use pesticide in Nebraska unless the person is (1) licensed as a commercial applicator, non-commercial applicator or private applicator, and (2) authorized by the license to use the product for the proposed use. As a condition for a license, applicants must pass an examination corresponding to the license category for which they are applying, and covering competency- and safety-related topics including (1) pesticide labeling, (2) pesticide toxicity, exposure, symptoms, and precautions, (3) environmental risk, (4) pest identification, (5) equipment, (6) application techniques, (7) equipment calibration, and (8) pesticide application laws and regulations. Depending on the license category involved, applicators may also be required to undergo performance testing, to demonstrate competency in their respective category.

RECORDKEEPING — Private applicators must record information about each restricted-use pesticide application they perform, including such details as the brand and generic names of the product applied, the total amount of the product applied, and a map or written description of the area treated. Commercial applicators are also required to identify the specific pest or pests targeted by each application of a restricted-use pesticide, the start- and end-times, and the method of disposal of any unused product. Records must be retained for at least 3 years from the date of each application.

PROHIBITED ACTS — Among other violations, it is unlawful for anyone (1) to use a pesticide contrary to the Pesticide Act or to the product label, (2) to store or discard a pesticide or pesticide container in a manner that is likely to cause injury to humans, the environment, vegetation, crops, livestock, wildlife or pollinating insects, or (3) to fail to make and preserve required records. Penalties for violations range from \$1,000 to \$5,000.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080). The Department is responsible for licensing and certification of pesticide applicators in the state, and for enforcing their compliance with the Pesticide Act. Inspectors from the agency conduct routine inspections of pesticide dealers and applicators and must also investigate reports of pesticide misuse. A formal complaint can be submitted to the Department by telephone or in writing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

CUSTOM PESTICIDE APPLICATION LAW

STATUTORY CITATION: Nev. Rev. Stat. §§ 555.2605 - 555.470

RELATED REGULATIONS: Nev. Admin. Code §§ 555.250 - 555.700

GENERAL SUMMARY: Chapter 555 of the state statutes contains provisions which regulate the custom application of pesticides in Nevada, in part by requiring the licensing of individuals engaged in pest control operations and the certification of users of restricted-use pesticides. The state agriculture department is authorized to adopt related regulatory provisions consistent with statutory intent.

SPECIFIC TERMS AND CONDITIONS

LICENSING — In general, no one may engage in pest control activities in Nevada without a license to do so issued by the state. Among other qualifications, an applicant for a pest control license must have at least 2 years' practical pest control experience, or an equivalent combination of education and experience. Issuance of a license is also contingent on the applicant's presentation of proof of bonding or public liability and property damage insurance in an amount not less than \$50,000. In addition, drift insurance may be required whenever the applicant intends or expects to employ pesticides that are hazardous to humans, livestock, crops or wildlife.

CERTIFICATION — Aside from the licensing requirement, anyone who intends to use or supervise the use of a restricted-use pesticide must first obtain a certificate from the state authorizing such activity. Certification is conditioned on a finding by the state enforcement agency that the applicant has adequate knowledge concerning the proper use and application of such materials, and of the hazards involved and precautions to be taken in connection with their use.

RECORDKEEPING — Persons who, for hire, apply pesticides to cropland using ground equipment or apply pesticides by aircraft are required to keep a record of each property treated. The record must include the date of treatment, the start and end times, the name of the person for whom the pesticide was applied, the county where the treatment took place, the crop involved, the number of units treated, the material and dosage applied, the purpose for applying pesticides, the temperature and wind velocity at the start and end of treatment, and the name of the applicator or pilot.

PROHIBITED ACTS — Among other grounds for suspension, modification or revocation of licensing and certification, it is unlawful for pesticide applicators in the state (1) to operate faulty or unsafe equipment, (2) to apply pesticides in a faulty, careless or negligent manner, (3) to engage in pesticide control activities not authorized under the class of license or certificate held, or in violation of its restrictions, (4) to continue to operate when the required insurance or bonding has expired or been canceled, (5) to fail or neglect to keep required records or make required reports, or (6) to apply a pesticide product in a manner inconsistent with its labeling or contrary to other restrictions imposed by the state agency.

EXEMPTION OF FARMER-OWNERS — Except with respect to the use of restricted-use products, the licensing and other requirements of the pesticide application laws do not apply to any farmer-owner of ground equipment applying pesticides on his or her own property, or on adjacent property for the accommodation of neighbors for agricultural purposes, as long as the farmer-owner does not regularly engage in pesticide application for hire or offer such services to the general public.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY – Plant Industry Division, Nevada Department of Agriculture, Sparks, Nevada 89431 (775-353-3729). The Department is responsible for the licensing and certification of pesticide applicators in the state, and for assuring their compliance with the standards and duties imposed by these provisions. Inspectors from the Department may enter any public or private property at reasonable times for the purpose of inspecting, auditing, sampling or monitoring any aircraft, ground equipment, records, storage areas, pesticides, pesticide application operations, disposal operations, or other activities subject to regulation by the Department. On receipt of a verified complaint, the Department may investigate any loss or damage resulting from the application of any pesticide by a licensed pest control operator, generally provided that the complaint is filed within 60 days from the time the loss or damage becomes known to the complainant. In addition to suspension or revocation of the applicant's license or certificate, violators are subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

PESTICIDE CONTROL LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 - 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 100 - 1100

GENERAL SUMMARY: The New Hampshire pesticide control law regulates the use of pesticides in the state, in part by requiring the registration and licensing of applicators and by defining numerous illegal acts related to the application and other use of pest control compounds. The state pesticide control board has explicit authority to adopt administrative rules further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION CERTIFICATES — No one in New Hampshire may engage in the commercial application of pesticides, or in the private application of restricted-use pesticides, without a valid certificate of registration issued by the state. Every person who applies for a registration certificate is required to demonstrate by examination or comparable means his or her competency to use pesticides in accordance with state standards, and commercial for-hire applicators must provide proof of financial responsibility covering potential damages from the applicant's pest control operations.

PERMITS — In general, no one other than a commercial applicator may apply pesticides in New Hampshire without first obtaining a written permit from the state. Issuance of such a permit is contingent on the applicant's demonstration of ability to use pesticides safely.

APPLICATOR RECORDKEEPING — Both commercial and private applicators are required to make, and keep available for at least 2 years, a record of each application of pesticides. The record must include, among other entries, the site or crop treated and its location, the pesticide and formulation used, the dosage applied, the method of application, the date of application, and the target pest involved.

DAMAGE TO NON-TARGET AREAS — It is illegal for anyone to apply pesticides in a way that causes or could cause contamination of areas not targeted for treatment. Pesticides may not be applied by power equipment any time wind velocity would cause contamination of a non-target area.

PESTICIDE DISPOSAL — Unusable pesticides generally must be disposed of in an authorized solid waste or hazardous waste treatment storage disposal facility. Empty pesticide containers must be disposed of in accordance with prescribed procedures. Pesticide containers may not be used for any purpose not described on the product label.

PROHIBITED ACTS — Among numerous other unlawful practices cited in these provisions, it is illegal for anyone (1) to handle, transport or store pesticides in such a manner as to endanger humans, food, feed or the environment, or (2) to store or dispose of any pesticides or pesticide containers in a way that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550). The Department is responsible for issuing registration certificates and permits to pesticide applicators in the state, and for assuring their compliance with state standards governing use and application of such products. Agents of the Department are authorized to enter any public or private premises, among other purposes (1) to inspect equipment or aircraft used in the application of pesticides, (2) to inspect crops, animals and property exposed to pesticides, (3) to inspect pesticide storage and disposal areas, (4) to inspect and copy records related to pesticide distribution, storage and use, and (5) to obtain soil and water samples believed to have been exposed to pesticides. Anyone who violates any provision of the pesticide control laws, the associated regulations, or a Department order is guilty of a criminal offense and is also liable for a civil money penalty of up to \$5,000 and an administrative fine of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

PESTICIDE CONTROL ACT OF 1971

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 - 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30, Subchs. 5 - 13

GENERAL SUMMARY: In order to eliminate the environmental threat posed by the indiscriminate use of pesticides, the Pesticide Control Act authorizes the adoption of state regulations governing the sale, purchase, transportation, labeling, use and application of insecticides, rodenticides and similar products in New Jersey.

SPECIFIC TERMS AND CONDITIONS: Under statutory rulemaking authority, the state environmental protection department has adopted standards relevant to pesticide applicators and the general use of pesticides.

PESTICIDE APPLICATOR BUSINESSES -

Licensing — No individual, company or other entity may engage in the business of applying pesticides for hire without first licensing the business with the state. Among other requirements, a pesticide application business must maintain liability insurance with limits ranging from \$300,000 to \$500,000 for bodily injury and property damage, or obtain a surety bond of from \$100,000 to \$300,000. For each category of pesticide application in which it engages, the business must employ at least one commercial pesticide applicator who is certified and registered in that category.

Recordkeeping — Along with numerous related duties, every pesticide application business is required to keep a record of each application of pesticides performed by the business. The record must include the date of application, the place of application, the name of the product used, the amount applied, the dosage or rate of application, and the name and business license number of the person performing the application.

COMMERCIAL PESTICIDE APPLICATORS —

Certification and Licensing — In general, no one (other than a private applicator, discussed below) may use or supervise the use of any pesticide in any category of use for which he or she has not been certified and licensed by the state, unless the person is an employee of a commercial pesticide applicator and is applying pesticides (using non-aerial equipment only) under the direct supervision of that commercial applicator. In order to become certified, an applicant is required to pass both a general examination and an examination specific to the category of use in which the applicant will engage. Within 12 months after certification, a commercial applicator must apply for a license, which is renewable annually.

Recordkeeping — Among related responsibilities, commercial pesticide applicators must keep a record of each application of pesticides they make or supervise. The record must contain essentially the same elements as those prescribed for pesticide application businesses.

PRIVATE PESTICIDE APPLICATORS —

Certification and Registration — Agricultural producers who apply or supervise the application of restricted-use pesticides to their own crops, as well as the employees of such producers who apply restricted-use pesticides to their employer's crops, must be certified and licensed as private pesticide applicators. Certification requires successful completion of two separate examinations, both designed to test the applicant's knowledge and understanding of pesticide safety, laws and regulations, pesticide labeling, crops and pests, pesticide poisoning symptoms, and related subjects. Within 12 months after certification, private applicators are required to apply for a license.

Recordkeeping — Registered private applicators must keep a record of each application of pesticides, in essentially the same format as described above with respect to pesticide application businesses.

COMMERCIAL PESTICIDE OPERATORS — Unless the person is certified and licensed as a commercial or private applicator or is working in the actual presence of such an applicator, no person may apply pesticides under the supervision of a commercial or private applicator unless he or she has undergone annual prescribed training and is licensed as a pesticide operator. Under no circumstances, however, may a pesticide operator apply pesticides by air.

STORAGE OF PESTICIDES — Restricted-use pesticides and contaminated containers generally must be stored in a secure, locked enclosure, plainly marked with warnings.

CONTAINER LABELING — It is illegal to store, transport or possess any pesticide if part or all of its labeling is missing or unreadable; if the product is in a service container, the container must have attached to it a readable label showing the name of the substance, its EPA registration number, the name and percentage of its active ingredients, and an appropriate signal word ("Danger—Poison," "Warning," or "Caution"). Pesticides may not be placed or kept in any container commonly used for food, beverages or household products.

PESTICIDE DISPOSAL — No one may dispose of pesticides, pesticide containers or pesticide equipment in any way which could harm people or the environment, or in a manner prohibited by state or federal law.

APPLICATION AND SAFETY EQUIPMENT — Pesticide application equipment must be properly maintained and calibrated. Anyone having employees who handle or apply pesticides must make necessary or appropriate safety equipment available to the workers. Safety equipment must be in good working order, and the workers must be trained in its proper operation.

PRIOR NOTIFICATION OF PESTICIDE APPLICATIONS — In general, application of pesticides to an area greater than 3 acres, when the treatment is performed by or contracted for one person who has control over the targeted land, is illegal unless prior notification of the proposed application has been given to persons living in the vicinity of the target site. Notification must be given in at least 2 newspapers, no earlier than 30 days and no later than 7 days before the proposed date of treatment.

NOTE: While this requirement does not apply to aerial pesticide applications made in connection with the production of agricultural commodities, any private or commercial applicator who has been cited by the state agency for a violation involving pesticide drift, direct application to non-target areas, or injury or damage to people or the environment during the course of producing an agricultural commodity, must post a warning flag or sign that is visible to nearby properties. The flags or signs need to go up at the start of the application and remain posted for at least 24 hours and be removed within 72 hours of the end of the restricted-entry interval.

PROHIBITED ACTS — Among many other unlawful acts, it is illegal for anyone (1) to use a pesticide in a manner inconsistent with the product's labeling or with state or federal restrictions, (2) to handle or apply pesticides in any way that causes or could cause harm to people, property or the environment, (3) to apply pesticides without taking reasonable precautions to minimize exposure of individuals and assuring the safety of persons who are unavoidably exposed, (4) to apply pesticides to a target site in such a way or under such conditions that a non-targeted site is contaminated by pesticide drift, or (5) to apply pesticides to agricultural lands when persons other than those involved in the application are in the target area without prescribed protective clothing or equipment.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568). This agency is responsible for certification and licensing of pesticide applicators, and for monitoring compliance with the statutory and regulatory requirements and restrictions on the use of pesticides in the state. The Department may suspend or revoke the license of any application business, applicator or operator found to have violated any of these provisions, or of anyone who has been assessed a civil penalty or convicted of a criminal violation under the Federal Insecticide, Fungicide, and Rodenticide Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

PESTICIDE CONTROL ACT

STATUTORY CITATION: N.M. Stat. §§ 76-4-1 - 76-4-39

RELATED REGULATIONS: N.M. Code R. § 21.17.50 and § 21.17.56

GENERAL SUMMARY: The Pesticide Control Act regulates the sale, distribution and use of pesticides in New Mexico, in part by requiring the licensing of pesticide applicators, requiring the inspection of pesticide application equipment, and outlawing certain acts involving pesticide products. The state agriculture department is expressly authorized to adopt related regulatory standards consistent with statutory intent.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION —

Private Agricultural Applicators — No private applicator may use a restricted-use pesticide in agricultural operations without first being certified by the state. Certification requires an understanding of basic pesticide product labeling and competence in the use and handling of the particular pesticide or pesticides to be applied. As a further precaution, private applicators must obtain a user permit prior to purchase of the product.

Commercial Applicators and Operators — It is unlawful for anyone to engage in the business of applying pesticides to someone else's land without a commercial pesticide applicator license issued by the state. Likewise, employees of commercial applicators must be licensed as pesticide operators. Licensing in both commercial categories requires as a prerequisite completion of an examination to demonstrate competence to perform the respective pesticide use functions safely.

INSURANCE AND BONDING — The state may not grant a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility, consisting of a liability insurance policy or a surety bond protecting persons who may suffer legal damages as a result of the licensee's operations. Current regulations require minimum liability coverage of \$50,000 for bodily injury and property damage (\$100,000 for aerial pesticide applicators) or a surety bond of \$100,000.

INSPECTION OF EQUIPMENT — Equipment used for the commercial application of pesticides must be inspected annually by the state agency. Any piece of equipment which fails inspection must be tagged with an "Out of Order" seal and may not be put back into service until it has passed re-inspection.

STORAGE AND DISPOSAL OF PESTICIDES — Pesticides must be stored in a manner that will not result in injury to humans, vegetation, crops, livestock, wildlife or beneficial insects, or the pollution of any waterway.

RECORDKEEPING — Commercial and non-commercial applicators are required to make a record of each application of pesticides within 24 hours after the job is completed, whether the product is applied by the applicator or someone under the applicator's direct supervision. The record must include, among other data, the name of the person for whom the pesticide was applied, the target pest and the crop or site involved, the date and time of the application, identifying information on the product applied, the wind velocity and temperature at the time and place of application, and the concentration and amount of the substance applied.

PROHIBITED PRACTICES — Among other acts defined as violations of the Pesticide Control Act and which constitute grounds for denial, suspension or revocation of a license or permit are these:

- Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.

- Refusing or failing to keep required records or to make required reports.
- (4) Applying pesticides without the proper certification or license.

No one, whether licensed or not, may transport, distribute or dispose of a pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

DAMAGE REPORTS — Anyone suffering loss or damage from the use or application by others of any pesticide may file a report of the loss with the state enforcement agency within 60 days from the time the loss or damage becomes known to the claimant. If inspection of the alleged damages discloses evidence that the complaint has merit, the agency's report will be made available to the parties involved. While filing of a damage report is not mandatory, a claimant's refusal to allow the state agency or a representative of the applicator's insurance or bonding company to inspect the alleged damage or injury will effectively preclude prosecution of the claim.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Compliance, New Mexico Department of Agriculture, Las Cruces, New Mexico 88003 (575-646-2733). The Department is responsible for testing and licensing pesticide applicators in the state, monitoring their compliance with the Act and its regulations, and investigating pesticide-related complaints. For these purposes, representatives of the Department are authorized to enter any public or private premises, with the consent of the owner or by court order, to inspect pesticide equipment, inspect land exposed to pesticides, inspect storage and disposal areas, and sample pesticide residues in soil and on crops. The Department may file a criminal complaint, punishable as a petty misdemeanor, for any violation of the Act. The filing of charges also exposes the violator to liability for a civil penalty of up to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

ENVIRONMENTAL CONSERVATION LAW (PESTICIDES)

STATUTORY CITATION: N.Y. Environmental Conservation Law §§ 33-0101 - 33-1503 and §§ 71-2901 - 71-2915

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 6, Part 325

GENERAL SUMMARY: Article 33 of the environmental conservation statutes regulates the registration, commercial use, purchase, and custom application of pesticides in New York. Of immediate relevance to the agricultural workplace are provisions requiring certain permits and certification for the purchase and application of restricted-use pesticides, requiring the registration of pesticide businesses, and defining certain unlawful acts involving pesticide products. Article 71, in turn, delimits the state's powers and procedures in enforcing the substantive pesticide standards, and grants the enforcement agency authority to adopt additional regulatory controls over pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

PURCHASE PERMITS — With few exceptions, a purchase permit issued by the state is required for the purchase, possession or use of a restricted-use pesticide. The applicant for a purchase permit has to justify the need for the quantity and type of pesticide requested and must demonstrate sufficient knowledge and experience concerning the proper handling, application and disposal of the product. A permit is valid only for the compound and quantity indicated on its face and must be properly canceled by the seller at the time the product is purchased.

APPLICATOR CERTIFICATION — No one may engage in the commercial application of any pesticide, or the private agricultural application of a restricted-use pesticide, without first being certified by the state. An applicant for certification must show adequate knowledge and experience in the proper application of pesticides and the use of pesticide equipment by completing an examination. Certification is not valid unless the certificate-holder also has a valid identification card issued by the state agency.

PESTICIDE BUSINESS REGISTRATION — Apart from the preceding requirements, any individual or firm that performs commercial application of pesticides for hire must register with the state and meet state-prescribed standards of competence in the use of pesticides and pesticide equipment.

APPLICATOR RECORDKEEPING — Every application business and commercial applicator must keep a record of each application of any pesticide. Among other information, the record must include the date and location of the application, the pesticide and dosage applied, the target pest involved, and the total acreage treated.

UNLAWFUL ACTS — Among numerous other prohibited activities, it is illegal for anyone (1) to detach, alter or deface any part of the labeling on a pesticide product, (2) to store or dispose of a pesticide or pesticide container in a manner contrary to state regulations, (3) to purchase, possess or use a restricted-use pesticide without a purchase permit or a certified applicator identification card, (4) to apply pesticides commercially without a certified applicator identification card (unless working under the direct supervision of a certified applicator), or (5) to engage in the pesticide application business without being registered.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Pest Management, Division of Materials Management, New York State Department of Environmental Conservation, Albany, New York 12233-7250 (518-402-8652). The registration of pesticide application businesses in the state, the certification of pesticide applicators, and the issuance of pesticide purchase permits is administered exclusively by the Department. In enforcing compliance with the rules applicable to the purchase and use of pesticides, the Department may conduct investigations, hold hearings, subpoena witnesses and documents, and take sworn testimony. Whenever the Department finds, or has probable cause to believe, that a pesticide is being used in violation of the state pesticide laws, the agency may issue a stop-use order requiring immediate cessation of the pesticide operation involved. Anyone who violates the pesticide provisions is liable to a civil penalty of up to \$5,000 for the first violation, assessed by the Department and enforceable in court by the state attorney general. Acts prohibited under the pesticide laws are also deemed a criminal offense, punishable by fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

NORTH CAROLINA PESTICIDE LAW OF 1971

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 – 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .0101 - .2203

GENERAL SUMMARY: The North Carolina Pesticide Law regulates the registration, sale, use, application and disposal of insecticides, fungicides, herbicides, defoliants and similar substances in the state. Of particular relevance to agricultural field workers, the pesticide law (1) requires the licensing and certification of applicators of such products, (2) establishes general guidelines for the handling, storage and disposal of pesticides, and (3) authorizes the state pesticide board to issue specific regulations relating to pesticide application procedures and other issues.

SPECIFIC TERMS AND CONDITIONS

LICENSING OF COMMERCIAL APPLICATORS — No one may engage in the pesticide application business at any time without a license from the state. Issuance of a license requires the applicant to demonstrate his or her technical qualifications to conduct such operations, as well as knowledge of the laws and regulations governing use and application of pesticides.

CERTIFICATION OF PRIVATE APPLICATORS — Farm operators who use or supervise the use of restricted-use pesticides on their own crops, and who are not licensed as commercial applicators, must be certified by the state as private applicators. Certification generally requires, among other conditions, that the applicant participate in a state-approved classroom training program dealing with pest control and pesticide safety.

RECORDKEEPING — All commercial pesticide applicators using ground application equipment must keep a record of all applications of restricted-use pesticides. The record must include, among other elements, the name of the applicator, the name and address of the person for whom the pesticide was applied, the location of the site treated, the name of the crop involved, the approximate acreage treated, the date of treatment, the name of the pesticide used, and the amount of the product applied.

PESTICIDE STORAGE — No pesticide may be stored in an unlabeled container, nor may such substances be stored in any food, feed, beverage or medicine container. Pesticides may not be stored in a manner that could lead to contamination of foods, feeds, beverages, eating utensils, or tobacco products, or could result in accidental ingestion by humans or domestic animals.

PESTICIDE DISPOSAL — It is unlawful to dispose of pesticides or pesticide containers in any way which could cause or allow such items to be dumped in the open, burned in the open, or dumped in the ocean or in some other body of water.

PROHIBITED ACTS — Among numerous other restrictions and offenses mentioned in the statute, it is unlawful for anyone:

- To transport, store or handle pesticides in such a manner as to endanger human life, the environment, food, feed or other products.
- (2) To store or dispose of pesticides or pesticide containers in a way that may cause injury to humans, vegetation, crops, livestock or wildlife, or pollute any water supply or waterway.
- (3) To detach, alter or deface all or any part of the labeling on a pesticide product.
- (4) To use a pesticide in a manner inconsistent with its labeling.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556). Representatives of the Department may enter public and private property to inspect both the premises and equipment used in the storage or application of pesticides, and to investigate specific complaints of injury to humans, land or plants. Any person violating any provision of the pesticide law or the associated regulations is subject to a criminal fine, imprisonment or both. The Department may also impose civil money penalties for a range of violations, including unlicensed application of pesticides, failure to keep required records or make required reports, and use of pesticides contrary to product labeling.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

NORTH DAKOTA PESTICIDE ACT OF 1975

STATUTORY CITATION: N.D. Cent. Code §§ 4-35-01 - 4-35-30

RELATED REGULATIONS: N.D. Admin. Code 60-03-01

GENERAL SUMMARY: The North Dakota Pesticide Act regulates the distribution, transportation, storage, use and disposal of pesticides, plant regulators and similar substances in the state, largely by requiring the licensing of pesticide applicators and enforcing their compliance with application standards and procedural rules. The state agriculture department is expressly authorized to adopt and enforce administrative standards further regulating pesticides and pesticide users in North Dakota.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — In general, no one may purchase, use or supervise the use of any restricted-use pesticide for commercial purposes without being certified as a commercial pesticide applicator. Similarly, agricultural producers who intend to use restricted-use pesticides on their own property, or without compensation on agricultural lands belonging to another producer, must be certified by the state as private applicators as a precondition to buying, using or supervising the use of any such product. Among other violations for which a license or certification may be denied, suspended or revoked are the following:

- (1) Applying a pesticide in a manner inconsistent with its labeling.
- Operating faulty or unsafe equipment.
- (3) Refusing or neglecting to keep required records or make required reports.
- Operating unlicensed equipment.
- (5) Purchasing, using or supervising the use of a restricted-use pesticide without complying with certification requirements.

FINANCIAL RESPONSIBILITY — Applicants for commercial applicator certification must submit proof of financial ability to cover liability for damage or injury caused by their pesticide application activity. This requirement may be met by obtaining a performance bond or liability insurance policy in the amount of \$100,000, or a notarized letter from a financial institution or CPA confirming that the applicant has at least \$100,000 in net assets.

PESTICIDE STORAGE AND DISPOSAL — It is illegal for anyone to store or discard surplus pesticides or empty pesticide containers in a manner that would endanger humans, the environment, food, feed or other products.

APPLICATOR RECORDKEEPING — Commercial and private applicators must keep a record of all applications of restricted-use pesticides. Among other elements, each record must include the name and address of the person for whom the pesticide was applied, the location of the treatment and the specific crops and acreage involved, the pest or pests to be controlled, the date and time of the application, the name of the pesticide supplier, the name and amount of the product applied, the wind velocity and air temperature at the treatment site at the time of application, and a description of the equipment used in the application.

REPORTING OF PESTICIDE ACCIDENTS OR LOSSES — Any person claiming injury or damage by a pesticide applied by another party must report the incident to the applicator involved, and must allow the applicator to inspect the property or non-target organism alleged to have been affected. In general, no civil action for damages arising out of the application of a pesticide may be commenced unless the claimant has notified the applicator (1) within 28 days from the date the claimant knew the loss had occurred, or (2) before 20 percent of the crop or field allegedly damaged is harvested or destroyed, whichever period occurs earlier. Refusal by the claimant to permit examination of the damage automatically bars the claim.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Enforcement Program, North Dakota Department of Agriculture, Bismarck, North Dakota 58505 (701-328-4922). The Department is responsible for the certification of pesticide applicators and the enforcement of the statutory and regulatory standards applicable to pesticide use in the state. In addition to civil liability for damages caused by misuse or abuse of pesticide products, anyone who violates the Pesticide Act is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A person who has suffered damages from a violation of the Pesticide Act may take civil action against the applicator involved, using a private attorney or public legal service provider.

Ohio

PESTICIDE LAW

STATUTORY CITATION: Ohio Rev. Code §§ 921.01 - 921.99

RELATED REGULATIONS: Ohio Admin. Code 901:5-11

GENERAL SUMMARY: Chapter 921 of the state statutes regulates the sale, storage, use and disposal of pesticides in Ohio and contains, among other provisions, licensing requirements and operational standards relevant to pesticide applicators in the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING -

Pesticide Businesses — No one may own or operate a business whose purpose it is to apply pesticides to someone else's property for hire without first obtaining a pesticide business license from the state. Among other prerequisites for obtaining a business license, the applicant must submit proof of liability insurance in the minimum amount of \$300,000 covering potential damage caused by the application of pesticides.

Commercial Applicators — No one (other than a private applicator, discussed next) may apply a restricted-use pesticide without having a commercial applicator license issued by the state. As conditions for receiving such a license, the applicant must pass both a general core examination and an examination for the specific category of pesticide use for which the applicant is applying, and be found competent to apply pesticides and conduct diagnostic inspections.

Private Applicators — A private applicator's license is required for any non-commercial applicator who intends to apply a restricted-use pesticide to agricultural crops on the applicator's own land, or on someone else's property when no fee is charged for such services. Applicants for a private applicator license must demonstrate adequate knowledge and competence to apply the types of pesticides they will be applying.

OPERATIONAL STANDARDS —

Recordkeeping — Every licensed commercial applicator must make a record of all pesticide applications performed, including such information as the name and address of the person contracting for the service, the date and time of the application, the size and location or field number of the treatment area, the identity of the pesticide product used, the type of equipment used, and the wind velocity and air temperature when the application occurred. Records must be retained for a period of 3 years from the date of the pesticide application to which they refer.

Private applicator records must include, for each restricted-use pesticide applied, the applicator's name and license number, the product name and EPA registration number, the total amount of product applied, the location or field number of the area treated, the total area or acreage treated, the crop to which the pesticide was applied, and the date of application.

Storage and Disposal — Pesticides and pesticide containers must not be stored or disposed of in such a manner as to adversely affect the environment, contaminate animal feed or commercial fertilizers, or result in injury to crops, livestock or the general public. Pesticide handlers and applicators must observe detailed procedural rules spelled out in the state regulations.

Unlawful Acts — Among many other offenses defined in the pesticide law and associated regulations, it is illegal for anyone (1) to use or apply a pesticide contrary to the product's labeling or state regulations, (2) to use or supervise the use of a restricted-use pesticide without being licensed or certified to do so, or unless directly supervised by a certified applicator, (3) to fail or refuse to keep required records or make required reports, or (4) to operate in a faulty, careless or negligent manner, or operate faulty or unsafe equipment.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270). The Department has exclusive control over the licensing of pesticide applicators in the state, and is responsible for enforcing compliance with the statutory and regulatory provisions governing their operations. Representatives of the Department are granted free access to all books, records, pesticides and pesticide equipment subject to regulation, on any public or private property during regular business hours. The Department may observe pesticide applications and take samples of plant and animal life, soil, water or other matter to determine any adverse effects of a pesticide application, drift or spillage. Among other remedies, the Department may seize illegal products, issue orders requiring repair of unsafe application equipment, suspend or revoke the license or certification of pesticide applicators found in violation of the law or regulations, and apply to the state courts to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

OKLAHOMA COMBINED PESTICIDE LAW

STATUTORY CITATION: Okla. Stat. Title 2, §§ 3-81 - 3-86

RELATED REGULATIONS: Okla. Admin. Code §§ 35:30-17-1 - 35:30-17-107

GENERAL SUMMARY: Among other matters, the Oklahoma Combined Pesticide Law regulates pesticide applicators in Oklahoma, in part by requiring most classes of applicators to be licensed and certified, to secure liability insurance, to keep pesticide application records, and to observe other standards of performance and conduct. The state agriculture department has authority under the law to adopt and enforce related administrative standards further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — It is unlawful for any person to act, operate or do business as a commercial, non-commercial or private pesticide applicator unless the person has obtained a valid applicator's license from the state for the category of pesticide application in which the person intends to engage. There must be a certified applicator identified on each license issued, and certification requires the applicator to prove, through a written test (and, in some cases, a practical examination) competence in the particular use of pesticides for which the license is issued.

LIABILITY INSURANCE — No commercial applicator's license may be granted until the applicant furnishes evidence of insurance covering liability for damages arising from the applicator's operations and involving property other than the crops, plants or land targeted for treatment at the time the loss occurred.

RECORDKEEPING — Commercial and non-commercial applicators are required to keep accurate records of their pesticide activities, including such data as the time and place of each application, the name and address of the applicator and the person for whom the work is being performed, the legal description of the targeted property, the date of application, the quantity of the pesticide used, the trade name of the product, and the targeted pest.

PROHIBITED ACTS — Among other grounds for denial, suspension, revocation or non-renewal of licensing, a pesticide applicator is forbidden from (1) using a pesticide in a manner inconsistent with the product's labeling, (2) failing or refusing to keep required records, and (3) applying a pesticide without possessing the proper category of license permitting such use.

COMPLAINTS — The state agriculture department is required to receive and attempt to resolve written complaints involving the use or alleged misuse of pesticides.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Consumer Protection Services Division, Oklahoma Department of Agriculture, Food, and Forestry, Oklahoma City, Oklahoma 73152 (405-522-6347). In addition to its licensing function, the Department is responsible for inspecting the job performance of licensed applicators to determine their compliance with the statutory and regulatory provisions applicable to pesticide use, and for investigating related damage claims. The Department has authority to assess civil money penalties of up to \$1,000 for each violation of these provisions. Violators are also subject to criminal fines and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

STATE PESTICIDE CONTROL ACT

STATUTORY CITATION: Or. Rev. Stat. §§ 634.005 - 634.992

RELATED REGULATIONS: Or. Admin. R. 603-057-001 - 603-057-0535

GENERAL SUMMARY: The State Pesticide Control Act regulates the registration, distribution and use of pesticides in the state. Among the measures in the Act most immediately relevant to agricultural labor are provisions requiring the licensing and certification of pesticide applicators and defining certain prohibited acts involving the use of pesticides. The Act also authorizes the state agriculture department to adopt and enforce administrative rules further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION —

Pesticide Operators — Any business engaged in the application of pesticides on the land or property of another must be licensed by the state. A pesticide operator's license may not be issued until the applicant has, in addition to other prerequisites, furnished evidence of liability insurance coverage or posted comparable security covering injury or death to persons, or damage to property, resulting from the applicant's pesticide operations. Minimum coverage is \$25,000 for bodily injury and \$25,000 for property damage.

Pesticide Applicators — Individuals who apply pesticides while in the employ of a pesticide operator must be licensed. Among other licensing conditions, an applicant must demonstrate by written examination adequate knowledge of pesticides, application practices, precautions to be taken, pesticide laws and regulations, and related issues.

Private Applicators — Farm operators and their employees who apply restricted-use pesticides to crops on their own land must secure a private applicator's certificate from the state. Such individuals must, among other certification requirements, pass a written examination covering such subjects as pesticides, application techniques and practices, safety precautions, and pesticide laws and regulations.

Aerial Applicators — No individual may apply pesticides by aircraft unless the individual holds a valid aerial pesticide applicator certificate issued by the state. An aerial certificate may be issued only if the applicant (1) is a licensed pesticide applicator, (2) holds a valid commercial pilot certificate for the type of aircraft to be used in applying pesticides, (3) has at least 50 hours of prescribed pesticide application experience or related flight training, and (4) has passed an examination testing the applicant's knowledge regarding pesticide application by aircraft.

RECORDKEEPING — Pesticide operators must maintain a record of each pesticide application, showing the name of the party for whom the pesticide was applied, the approximate location of the property treated, the date and time of application, the person who supplied the pesticide, the trade name and strength of the product, the amount or concentration used, the specific crops targeted, the equipment employed (including the FAA registration number of any aircraft used), and the name of each pesticide applicator and trainee who performed the actual application.

LIABILITY CLAIMS — No legal action may be taken against a pesticide operator for injury or damage from the use of a pesticide unless the claimant has filed a report of the loss with the state enforcement agency, and forwarded a copy of the report to the operator allegedly responsible and to the party for whom the application was performed, within 60 days from the date of the loss or the claimant's discovery of the loss.

PROHIBITED ACTS — Among other offenses described in the Act, it is illegal for anyone (1) to operate any faulty or unsafe pesticide spray apparatus, aircraft or other application equipment, (2) to perform pesticide application activities in a faulty, careless or negligent manner, (3) to refuse or neglect to keep required records, (4) to make false, misleading or fraudulent reports required by the Act, (5) to use pesticides without proper licensing or certification, if required, or (6) to use any pesticide product in a manner inconsistent with its labeling.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticides Program, Oregon Department of Agriculture, Salem, Oregon 97301 (503-986-4635). The Department is responsible for the registration of pesticide products in Oregon, the licensing and certification of pesticide applicators, and enforcement of compliance with statutory and regulatory application standards. The Department may revoke, suspend or refuse to issue or renew any license or certificate if it determines that an applicant, licensee or certificate-holder has violated any of these provisions. Violation is a misdemeanor, punishable by fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973

STATUTORY CITATION: 3 Pa. Stat. §§ 111.21 - 112

RELATED REGULATIONS: 7 Pa. Code Ch. 128

GENERAL SUMMARY: Among other matters, the Pennsylvania Pesticide Control Act regulates the application and disposal of pesticides in the state, in part by requiring the licensing of pesticide application businesses, the registration of their employees, and the certification of certain private applicators. The Act also authorizes the state administering agency to adopt specific procedural controls over the use of pesticides, in the interest of individual and community-wide safety.

SPECIFIC TERMS AND CONDITIONS

LICENSING OF BUSINESSES — Every individual, firm or other entity in the business of applying pesticides commercially must have a license, issued by the state, specifying the categories of pesticide use in which the business may engage. Among other prerequisites to licensing, the applicant must furnish evidence of financial responsibility, in the form of a surety bond, liability insurance or comparable security. Likewise, an applicant must at all times have in its employ a certified applicator, an individual who has been examined by the state agency and found knowledgeable and competent in such areas as (1) identification of target pests, (2) appropriate pest control measures, (3) pesticide hazards, (4) proper use of application equipment, (5) protective clothing and devices, (6) precautions in cleaning and maintaining equipment, (7) transportation, storage and disposal of pesticides, and (8) applicable federal and state pesticide laws and regulations.

REGISTRATION OF TECHNICIANS — Non-certified employees of any business engaged in applying pesticides to someone else's property may apply pesticides only under the direct supervision of a certified applicator. Such employees must be formally registered as application technicians if they use pesticides where a certified applicator is not physically present on the site. Moreover, application technicians must annually undergo training in pest identification, proper use of pesticides, use and maintenance of equipment, use of protective gear, pesticide transportation and disposal, and state and federal pesticide regulations.

CERTIFICATION OF PRIVATE APPLICATORS — No one, including most farm operators, may use any restricted-use pesticide without first being certified by the state as a private applicator. Certification requires, among other conditions, passing a written examination covering product labeling, safety and health, environmental protection, pests, pesticides, integrated pest management, equipment, application techniques, and laws and regulations.

RECORDKEEPING — Licensed application businesses and private applicators are required to keep a complete and accurate record of each pesticide application they perform. The record must include such information as the date of application, the location and size of the area treated, the pesticide product used, and the amount and dosage applied.

PRIOR NOTIFICATIONS — Commercial applicators planning to apply a restricted-use pesticide for an agricultural purpose generally must either (1) publish a notice of the proposed application in two general-circulation newspapers in the affected area, (2) individually notify people living adjacent to the treatment area at least 18 hours prior to the application, or (3) post signs of prescribed size and content at entry points and along property borders at least 18 hours prior to the application. Signs must remain posted until the expiration of any restricted-entry period specified on the pesticide label.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Health and Safety, Bureau of Plant Industry, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-772-5214). This agency is responsible for the licensing and certification of pesticide applicators in the state, and for assuring compliance with the limitations and duties applicable to their operations. Representatives of the Department may enter public or private property in order to sample pesticides, examine pesticide equipment, inspect lands exposed to pesticides, inspect storage and disposal areas, and investigate specific complaints of injury to humans or land. In addition to suspension and revocation of licensing and certification, the Department's enforcement tools include the power to assess civil money penalties and to initiate court action to restrain violations. The Act also prescribes criminal penalties for most such infractions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

PESTICIDE ACT OF PUERTO RICO

STATUTORY CITATION: 5 Laws P.R. Ann. §§ 1001 - 1013

RELATED REGULATIONS: Regulation 7769

GENERAL SUMMARY: The Pesticide Act of Puerto Rico regulates the use of pesticides, in part by requiring the licensing and certification of applicators, imposing recordkeeping and reporting duties on some applicators, and prohibiting specified acts involving pesticides. The Act authorizes the enforcement agency to adopt administrative rules further regulating pesticides and pesticide users in Puerto Rico.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Any person or establishment that is in the business of applying pesticides commercially must have a license issued by the government of Puerto Rico to do so. Applicants for a license must, among other requirements, furnish bond in an amount ranging from \$50,000 to \$100,000, to guarantee payment of any loss or damage caused by the licensee in the course of pesticide operations. The applicant must also submit evidence of compliance with federal pesticide licensing requirements, if applicable.

APPLICATOR CERTIFICATION —

Private Agricultural Applicators — Persons engaged in the application of restricted-use pesticides for farming must be certified by the government of Puerto Rico to do so. As a prerequisite for certification, private applicators must pass a test demonstrating practical knowledge of agricultural pests and pest control methods. Among other competencies, applicants for certification must show they can read and understand pesticide labeling information, apply pesticides in accordance with label instructions and warnings, recognize application problems that could cause environmental contamination, and recognize symptoms of pesticide poisoning and take effective measures in case of an accident.

Commercial Applicators — Persons who apply restricted-use pesticides commercially are required to be certified to do so. Among other requirements, commercial applicators must demonstrate general knowledge about pesticides and their hazards, and must pass a written exam covering such topics as plant pests, pesticide products and labeling, toxicity, application techniques, pesticide storage and disposal, protective equipment, environmental protection, accident prevention, and emergency treatment

RECORDKEEPING — Every applicator of restricted-use pesticides used in an agricultural operation must make and preserve a record of each such application. At a minimum, the record must include the applicator's name and certification number, the name and federal registration number of the pesticide used, the date and hour of the treatment, a description of the area and crop treated, the specific pest being targeted, the dosage used, the re-entry interval involved, and the procedure used to dispose of unused product.

ACCIDENT REPORTING — Every applicator of restricted-use pesticides must immediately inform the enforcement agency of the occurrence of any accident where a restricted-use pesticide under the applicator's responsibility is involved.

WORKER PROTECTION — Agricultural employers must comply with the worker protection standards established by the U.S. Environmental Protection Agency, which require that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

PROHIBITED ACTS — It is unlawful for anyone to use or apply any pesticide in a manner that does not comply with use instructions on the product label. Among other grounds for denial, suspension or revocation of applicator certification, an applicator may not perform pesticide applications for which he or she is not certified, violate any provision of the Puerto Rico or U.S. pesticide laws, or fail to maintain required records.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agrology and Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico 00646 (787-796-1735). Aside from testing, licensing and certifying pesticide applicators, the Department is responsible for monitoring the use of pesticides by all parties in Puerto Rico, and for investigating reported or suspected violations of the Pesticide Act. Representatives of the Department are empowered to enter any establishment or premises where pesticides are being applied, to verify compliance with the Act and the associated regulations. Failure to adhere to these provisions is a misdemeanor, punishable by a fine of from \$100 to \$500 for the first offense, and a \$200 to \$500 fine, imprisonment of 30 days to 6 months, or both fine and imprisonment for each subsequent offense. The Department is authorized to impose administrative fines in lieu of criminal prosecution for any such violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

PESTICIDE CONTROL ACT

STATUTORY CITATION: 23 R.I. Gen. Laws §§ 23-25-1 - 23-25-39

RELATED REGULATIONS: R.I. Code R. 12 020 013, Rules 1 – 28

GENERAL SUMMARY: The Pesticide Control Act regulates the labeling, distribution, sale, storage, transportation, use, application and disposal of pesticides. Among the Act's provisions with an immediate bearing on the safety of agricultural workers are those which require the licensing and certification of applicators, define unlawful acts involving the use of pesticides, impose recordkeeping duties on certain applicators, and authorize administrative adoption of other pesticide safeguards.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION —

Commercial Applicators — No one may apply restricted-use pesticides on someone else's land unless the application is performed by or under the supervision of a person licensed by the state. Moreover, in order to lawfully acquire, possess, apply or supervise the application of certain restricted-use pesticides, a person generally must be certified, which requires passing a written examination to demonstrate particular knowledge of pesticides and their effects and establish the applicant's competence to handle such products safely and effectively.

Certified Private Applicators — Farm operators who intend to apply restricted-use pesticides to their own land or crops, and farmworkers who apply restricted pesticides to the land or crops of their employers, must be certified as certified private applicators by the state. Like their commercial counterparts, certified private applicators must pass a test evidencing knowledge and competency to handle and use pesticides in their normal operations or for any special uses for which they are being examined.

FINANCIAL RESPONSIBILITY — As a condition for certification, commercial pesticide applicators must obtain a performance bond in the amount of \$50,000 per job, or purchase an insurance policy covering bodily injury (\$50,000 each occurrence, \$100,000 aggregate) and property damage (\$50,000).

APPLICATOR RECORDKEEPING — With respect to each application of pesticides, commercial applicators are required to make and retain for at least 2 full calendar years a record of, among other information, the name and EPA registration number of the product used, the formulation and quantity used, the purpose of the treatment, and the date and place of application. Certified private applicators must make and retain for at least 2 full calendar years a record of essentially the same information, but only with respect to applications of restricted-use and state limited-use pesticides.

PROHIBITED PRACTICES — The following acts, among many others, are both unlawful and grounds for denial, suspension or revocation of a pesticide applicator's license or certification:

- (1) Using a pesticide in a manner inconsistent with label instructions.
- (2) Operating faulty or unsafe equipment.
- (3) Operating in a faulty, careless or negligent manner.
- (4) Refusal or failure to keep required records or make required reports.
- (5) Using pesticides without being licensed or certified for such use, or without direct supervision by a properly licensed or certified applicator.
- (6) Detaching, altering or defacing any part of a pesticide label.
- (7) Storing or disposing of a pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781). Representatives of the Department have the right to enter public and private property for the purpose of inspecting pesticide application equipment, sampling pesticides or soil, inspecting storage and disposal areas, and observing pesticide applications. The Department has the express power to bring legal action to stop violations or threatened violations of the Act and the associated regulations. After notifying the party being charged and affording due opportunity to be heard, the Department may assess a civil penalty of up to \$10,000 against anyone who violates these provisions. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

SOUTH CAROLINA PESTICIDE CONTROL ACT

STATUTORY CITATION: S.C. Code §§ 46-13-10 - 46-13-240

RELATED REGULATIONS: S.C. Code Regs. 27-1070 - 27-1085

GENERAL SUMMARY: The South Carolina Pesticide Control Act regulates the registration, distribution, sale and use of pesticides in the state. Among other provisions, the Act requires the certification and licensing of certain pesticide applicators, requires evidence of financial responsibility as a precondition on licensing of commercial applicators, authorizes certain recordkeeping regulations, and imposes restrictions on the conduct of licensees and certificate-holders.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — It is unlawful for anyone to use or supervise the use of any restricted-use pesticide without a private, commercial or non-commercial applicator license issued by the agency responsible for administration of the Pesticide Control Act. To qualify for a license, commercial applicators and most agricultural producers must also be certified, which requires, in part, that the applicant pass an examination or otherwise demonstrate competency with respect to the use of the pesticides covered by their certification prior to purchase or use of the products involved. Licensing also necessitates payment of an annual license fee.

FINANCIAL RESPONSIBILITY — Before a commercial applicator license may be granted, the applicant must furnish evidence of financial responsibility, in the form of a surety bond, liability insurance or comparable security ranging from \$50,000 to \$100,000, protecting persons who may suffer legal damages as a result of the applicant's operations.

RECORDKEEPING — Under the Act's rulemaking authority, the administering agency has adopted regulations requiring each licensed commercial applicator to keep a record of each application of any restricted-use pesticide. The record must include the quantity of the product applied, the chemical and common names of the active ingredient, the pest or purpose for which the pesticide was applied, and the date and place of application.

PROHIBITED PRACTICES — Among many others, each of the following acts is regarded as a violation of the law and grounds for denial, suspension or revocation of a license and certification:

- Knowingly operating faulty or unsafe equipment.
- (2) Applying pesticides in a grossly negligent manner.
- (3) Refusing or failing to keep required records.
- (4) Applying pesticides without the category of license or certification required by the Act.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164). This agency is responsible for testing, licensing and certifying pesticide applicators in the state, and for enforcing their adherence to the rules and regulations applicable to their operations. With a properly executed warrant, representatives of the agency are authorized to enter any premises where pesticides are stored or used, to examine records, take samples and perform related investigatory activities. Enforcement officers may issue a stop-use order against the owner or custodian of a pesticide or pesticide device whenever there is reasonable cause to believe it is being used in violation of these provisions. The agency is also empowered to assess a civil money penalty for any such infraction. Willful violation may lead to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Dakota

AGRICULTURAL PESTICIDE APPLICATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 38-21-14 - 38-21-58

RELATED REGULATIONS: S.D. Admin. R. 12:56:02 - 12:56:18

GENERAL SUMMARY: Chapter 21 of the state agriculture statutes regulates the use and application of pesticides in South Dakota and includes provisions related to the licensing and certification of applicators, applicator recordkeeping, damage claims, and prohibited acts. The state agriculture department has explicit authority to adopt administrative rules further regulating pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

LICENSING — In general, no one may engage at any time in the business of applying pesticides to the land of another without an applicator's license issued by the state, and no one employed by a licensed applicator may apply or supervise the application of any pesticide without having obtained an operator's license.

Exceptions — Licensing is not required of a farm operator applying non-restricted pesticides manually or with ground equipment on the farmer's own property, or on the property of neighboring farmers for their accommodation, as long as the farmer does not regularly perform such functions for hire. Also, pesticides may be applied by an unlicensed person acting under the direct supervision of a licensed applicator or licensed operator.

CERTIFICATION — It is illegal for anyone to use a restricted-use pesticide unless the individual has been certified by the state as competent to do so without unreasonable adverse effects on the environment, including injury to the applicator or other persons.

RECORDKEEPING — Commercial applicators are required to keep a record of each pesticide application. Among other data, the record must include the name and address of the person for whom the pesticide was applied, the location of the land or property treated, the pest and crop involved, the acreage treated, the date and time of application, the name of the pesticide used, the temperature and wind velocity at the time and place of application, the amount and concentration of the pesticide applied, and the name and address of the applicator.

STORAGE AND DISPOSAL OF PESTICIDES — It is generally unlawful to store or dispose of a pesticide or pesticide container in any way which could lead to open dumping or burning of such products or containers, or to water dumping. Pesticides may not be stored next to food or feed.

PROHIBITED ACTS — The pesticide application law makes it a misdemeanor for anyone to apply pesticides to someone else's land without the appropriate class of applicator's or operator's license required for such use. Generally, too, it is a violation of the law for a person to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects. Among the grounds for denial, suspension, revocation or modification of an applicator's license or certification are these:

- (1) Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- Refusing or neglecting to keep required records or make required reports.
- (4) Refusing or neglecting to comply with the statutory or regulatory pesticide provisions or with a lawful order by the enforcement agency.

DAMAGE CLAIMS — A person claiming damages from a pesticide application generally must file a written claim with the state agency within 30 days after the damages occurred. Whenever possible, the agency must inspect the damages and, if the complaint has merit, must make a report of the inspection available to the parties involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Agronomy Services, Division of Agricultural Services, South Dakota Department of Agriculture, Pierre, South Dakota 57501 (605-773-4432). The Department is responsible for issuing regulations for carrying out the language of the pesticide application law, for licensing and certifying pesticide applicators in the state, and for monitoring their compliance with the statutory and regulatory provisions. Representatives of the Department may enter public and private property at reasonable times to inspect pesticide-related equipment, to inspect lands actually or reportedly exposed to pesticides, to inspect storage and disposal areas, to investigate complaints of injury to humans and land, to examine required records, and to sample pesticides being applied or to be applied. The law provides both civil money penalties and criminal sanctions for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

■ TENNESSEE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

STATUTORY CITATION: Tenn. Code §§ 43-8-101 - 43-8-206

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-02 and 0080-09-04

GENERAL SUMMARY: The Tennessee Insecticide, Fungicide, and Rodenticide Act specifically regulates pesticide products and dealers in the state, including commercial and private applicators. The Act explicitly authorizes the state agriculture department to adopt and enforce related administrative standards further regulating the use of pesticides in Tennessee.

SPECIFIC TERMS AND CONDITIONS

RESTRICTED-USE PESTICIDES — Anyone who buys or uses a restricted-use pesticide must be certified as a private or commercial applicator, unless licensed as a commercial pest control operator.

COMMERCIAL APPLICATOR CERTIFICATION — Restricted-use pesticide applicators are required to pass an examination specific to the category of service they will engage in. The agricultural pest control certification exam covers the various crops and pests targeted by pesticides, soil and water issues, pre-harvest and re-entry intervals, the potential for environmental contamination and non-target injury, and community issues relevant to use of restricted-use pesticides in agricultural areas. Every 3 years, a commercial pesticide applicator must obtain at least 18 units of approved continuing education to qualify for recertification.

RECORDKEEPING — All commercial pest control operators and commercial applicators must keep true and accurate records documenting each use of general- and restricted-use pesticides. Records must be made available for enforcement agency inspection for 2 years following the pesticide use. Among other information, the record must include (1) the applicator's name and state-assigned ID number, (2) the name of the pesticide used, (3) the pest and crop targeted by the treatment, (4) the location of the application, (5) the application rate and amount of product used, (6) the name of the person who requested the application, and (7) the date of the treatment.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S.—Pesticides & Agricultural Chemicals—General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). The Department is responsible for issuing licenses and certification for qualified pesticide businesses and applicators in the state, and for monitoring their operations. Representatives of the Department may inspect any premises where pesticides are stored or used, observe pesticide applications, and take samples. After an opportunity for hearing, the Department may suspend or revoke the license or certificate of any applicator who has violated any provision of the Act or the associated regulations. Non-compliance is also punishable as a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

AGRICULTURE CODE (PESTICIDE AND HERBICIDE REGULATION)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 – 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code §§ 7.1 – 7.71

GENERAL SUMMARY: Chapter 76 of the state agriculture statutes regulates the labeling, registration, sale, use, storage and disposal of pesticides in the state. Among other prescriptive measures, the law requires the certification and licensing of pesticide applicators and authorizes the state agriculture department to adopt detailed standards governing application practices.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION AND LICENSING — Unless acting under the direct supervision of a certified applicator, no one may use or supervise the use of a restricted-use or state-limited-use pesticide unless the individual is licensed as a certified commercial, non-commercial or private applicator and is authorized by the license to use the pesticide in such a manner. Before a license may be issued, applicants for a commercial or non-commercial license must be tested to demonstrate competence to safely and effectively use and supervise the use of pesticides; applicants for a private applicator license must attend a state-approved training course.

FINANCIAL RESPONSIBILITY — Applicants for a commercial applicator license must provide the state licensing agency with proof of a surety bond or liability insurance protecting persons who may suffer damages as a result of the applicant's operations. The amount of the bond or insurance coverage must be no less than \$100,000 for bodily injury, or general aggregate coverage of \$200,000 for each occurrence. Insurance policies must include chemical drift coverage.

RECORDKEEPING — Licensees must keep a record of each application of a restricted-use or state-limited-use pesticide, including the date and time of application, the name of the person for whom the application was performed, the location of the land involved, identifying information on the pesticide used, the target pest involved, the crop treated, certain meteorological data, and the identifying number of each piece of equipment used in the application.

REGISTRATION AND INSPECTION OF EQUIPMENT — All application equipment used by commercial applicators must be registered with the state agency, and a decal issued by the agency must be conspicuously affixed to each such device. Equipment must be maintained in a condition that will permit safe and proper pesticide application and may be inspected by state officers at any time.

STORAGE AND DISPOSAL OF PESTICIDES — No one may store or dispose of a pesticide or pesticide container in a manner that may result in injury to humans, vegetation, crops, livestock, wildlife or pollinating insects, or pollution of any water supply.

LABEL INSTRUCTIONS — It is illegal for anyone to use a pesticide in a manner inconsistent with its labeling, including, among other practices, failing to observe re-entry intervals, pre-harvest intervals, or worker protection requirements.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832). The Department is responsible for testing and licensing pesticide applicators in the state, and for assuring their compliance with the pesticide laws and the associated regulations. Any worker or other person with cause to believe that a violation has occurred, or who has experienced adverse effects from a pesticide application, may file a complaint with the Department, which must investigate the complaint and make a full written report. The Department may modify, suspend or revoke the license of an applicator for any violation, and may require cessation of the use of any unsafe pesticide equipment until repairs or adjustments are made. The Act provides both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

• UTAH PESTICIDE CONTROL ACT

STATUTORY CITATION: Utah Code §§ 4-14-1 - 4-14-13
RELATED REGULATIONS: Utah Admin. Code R. 68-7

GENERAL SUMMARY: The Utah Pesticide Control Act regulates pesticides in the state, primarily by authorizing the state agriculture department to adopt regulations relating to the sale, distribution, use and disposal of such materials.

SPECIFIC TERMS AND CONDITIONS: Under the Act's rulemaking authority, the agriculture department has established standards in the following areas of immediate relevance to agricultural field workers:

LICENSING AND CERTIFICATION OF APPLICATORS — It is illegal for anyone to apply any pesticide for hire without becoming certified and obtaining a commercial applicator's license from the state. Before a commercial license can be issued, the applicant is required to pass both a general examination and a more specific test covering the particular pesticide operations the applicant intends to conduct, both designed to demonstrate knowledge and ability to apply pesticides safely and effectively.

Likewise, every agricultural producer who applies restricted-use pesticides on his or her own land must be licensed and certified as a private applicator. Certification generally requires that the applicant demonstrate the ability to read and understand pesticide label directions, demonstrate competency in safely mixing and applying pesticides, and pass a related written examination.

PESTICIDE STORAGE AND DISPOSAL — No one may store or dispose of any pesticide or pesticide containers in a way that would cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects, or pollute any waterway.

PROHIBITED ACTS — Among other offenses defined in the regulations, it is unlawful for anyone (1) to apply any pesticide in a manner contrary to instructions and warnings on the product's label or in violation of state or federal restrictions, (2) to operate in a faulty or careless manner, or (3) to use pesticides without having the proper licensing or certification, if any, required for such use.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Program, Plant Industry and Conservation Division, Utah Department of Agriculture and Food, Salt Lake City, Utah 84114 (801-538-7183). The Department is responsible for licensing and certification of pesticide applicators, and for monitoring their compliance with the Pesticide Control Act and the corresponding regulations. Representatives of the Department are authorized to observe the use and application of pesticides, to inspect equipment used to apply pesticides, to sample lands exposed to pesticides, and to investigate related complaints of injury to animals or lands.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

PESTICIDE CONTROL LAW

STATUTORY CITATION: Vt. Stat. Title 6, §§ 1101 – 1112

RELATED REGULATIONS: Vt. Code R. 20-031-012

GENERAL SUMMARY: Chapter 87 of the Vermont agriculture laws grants broad authority to the state agriculture agency to regulate and license the sale, use, storage, treatment and disposal of pesticides.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION OF APPLICATORS — Agricultural producers who use or supervise the use of restricted pesticides on their crops are required to obtain a private applicator certificate from the state. Such a certificate may not be issued unless the applicant passes written examinations demonstrating competency in the safe handling of restricted-use products. Similarly, anyone who charges a fee to apply any type of pesticide must have a commercial applicator certificate, which requires passing written examinations specific to the category of operation he or she will engage in.

APPLICATOR RECORDKEEPING — Private applicators must record prescribed information concerning each application of restricted-use pesticides, including the product name and EPA registration number, the amount used, the date of application, the location of the treatment, and the pest or pests targeted. Commercial users are required to make similar records and to annually report all pesticide usage to the state agency.

PESTICIDE STORAGE AND DISPOSAL — Among other requirements and restrictions, pesticide storage areas must not be accessible to unauthorized users or to wildlife. Excess pesticides and pesticide containers must be disposed of in accordance with instructions on the product label.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431). This agency has authority to license and certify pesticide applicators in the state, and to revoke or suspend licensing and certification for failure to adhere to the regulations governing their operations. The agency is authorized to levy an administrative penalty of up to \$1,000 for each violation committed by a private applicator, and up to \$5,000 per violation committed by a commercial or non-commercial applicator. In addition, the law provides for a civil fine of up to \$25,000 for any violation of the statutory or regulatory pesticide provisions, and violators may be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

VIRGINIA PESTICIDE CONTROL ACT

STATUTORY CITATION: Va. Code §§ 3.2-3900 - 3.2-3947

RELATED REGULATIONS: 2 Va. Admin. Code §§ 5-670-10 - 5-690-240

GENERAL SUMMARY: Among other provisions, the Virginia Pesticide Control Act requires the certification of commercial and private users of pesticides in the state, makes certification contingent on meeting prescribed competencies with respect to handling and use of pesticide products, imposes certain recordkeeping and reporting duties on pesticide businesses and certain applicators, and defines various prohibited activities. The state agriculture board is authorized under the Act to adopt administrative regulations further controlling the use and application of pesticide products in Virginia.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION — All commercial pesticide applicators, as well as private agricultural users of restricted-use pesticides, must be certified as competent to utilize such formulations safely and effectively. As conditions for certification, commercial applicators are required to (1) meet certain minimum education or experience qualifications, and (2) complete a state-approved training course and pass a written examination.

Within 90 days after applying for certification, private applicators must take an examination for each pesticide application category in which they plan to engage.

RECORDKEEPING — Most pesticide application businesses, including individual applicators who apply general-use or restricted-use pesticides for hire, must keep a record of each pesticide application. The record must include the name of the property owner, the location of the treated area, the date of the application, the crop and crop pests targeted, the name and EPA registration number of the pesticide product applied, the amount of pesticide applied, and the type of application equipment

Private or not-for-hire applicators are subject to similar recordkeeping requirements.

FINANCIAL RESPONSIBILITY — Licensed pesticide application businesses (which may include individual pesticide applicators) must, before the license is issued, furnish the licensing agency with evidence of a surety bond or liability insurance protecting persons who may suffer legal damages as a result of the misapplication of pesticides; this requirement does not extend to agricultural establishments that do not sell or distribute pesticides. At a minimum, the bond or insurance must provide at least \$100,000 coverage for property damage, \$100,000 for personal injury to or death of one person, and \$300,000 per occurrence.

PROHIBITED ACTS — Each of the following acts, among others, is unlawful and constitutes grounds for denial, suspension or revocation of licensing and certification:

- Use or disposal of any pesticide contrary to label instructions or restrictions.
- (2) Application of pesticides in a negligent manner.
- Refusal or failure to keep required records or make required reports.
- (4) Use of a restricted-use pesticide without certification or direct supervision by a certified applicator.

DAMAGE REPORTS — Anyone claiming damages from the use or application of a restricted-use pesticide may file a written report of the incident with the state agency. The agency must attempt to inspect the damage and make its findings available to the parties involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Pesticide Services, Virginia Department of Agriculture and Consumer Services, Richmond, Virginia 23218 (804-786-3798; 804-371-6560). The Department has responsibility for the licensing and certification of pesticide applicators in the state, and for enforcing compliance with the statutory and regulatory provisions governing their operations. Representatives of the Department may enter any public or private property for the purpose of inspecting pesticide application equipment, inspecting storage or disposal areas, investigating complaints of injury to humans or property, sampling pesticides, or taking other action to determine and enforce compliance with the Pesticide Control Act. Any person violating the Act or the associated regulations is guilty of a Class 1 misdemeanor, and subject to an additional fine of up to \$500,000 if death or serious bodily injury results from the violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WASHINGTON PESTICIDE APPLICATION ACT

STATUTORY CITATION: Wash. Rev. Code §§ 17.21.010 - 17.21.920

RELATED REGULATIONS: Wash. Admin. Code Chs. 16-202 - 16-232

GENERAL SUMMARY: The Washington Pesticide Application Act regulates the use of pesticides in the state, in part by requiring the licensing of pesticide applicators and giving the state agriculture department broad authority to adopt specific rules governing the conditions under which pesticides may be applied.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Among other categories of users, persons who (1) engage in the business of applying pesticides to the land of another, (2) apply pesticides manually or by licensed apparatus while in the employ of a pesticide application business, or (3) use or supervise the use of restricted-use pesticides in the production of agricultural commodities, must be licensed by the state to do so. In each case, applicants for a license must be certified as to their ability to apply pesticides in the classifications they have applied for and their knowledge of the nature and effects of pesticides.

Exception — The commercial pesticide applicator licensing requirements do not apply to any farmer who owns ground application equipment and applies pesticides only on his or her own crops, or on the crops of other farmers on an occasional basis not amounting to a principal or regular occupation.

BONDING OR INSURANCE — The state may not issue a commercial pesticide applicator's license until the applicant has furnished evidence of a surety bond or liability insurance policy protecting persons who may suffer legal damages as a result of the applicant's operations. The amount of the bond or insurance must be at least \$50,000 each for property damage and public liability coverage, or \$100,000 combined coverage.

RECORDKEEPING — In general, licensed pesticide applicators must make, and preserve for at least 7 years, a record of each pesticide application they perform, including such information as the name of the person for whom the pesticide was applied, the location of the land where the application occurred, the year, month, day and time of application, the trade or common name of the product, and the direction and estimated velocity of the wind at the time of application.

Even if not required to be licensed, anyone who applies pesticides to more than one acre of agricultural land in a calendar year must also keep records.

UNLAWFUL ACTS — Among other violations enumerated in the statute, it is illegal for anyone to (1) handle or apply pesticides in a faulty, careless or negligent manner, (2) fail or refuse to keep required pesticide-related records, (3) apply pesticides without having obtained the appropriate class of license for that activity, or (4) fail to maintain the liability insurance required for the class of pesticide license held or required to be held.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S.—Pesticides & Agricultural Chemicals—General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Pesticide Management Division, Washington State Department of Agriculture, Olympia, Washington 98504 (360-902-2036; toll-free 877-301-4555). The Department has exclusive control over the licensing and certification of pesticide applicators in the state and is responsible for assuring their compliance with the Pesticide Application Act. Representatives of the Department may enter public or private premises at reasonable times to inspect pesticide application equipment, examine lands exposed to pesticides, inspect pesticide storage and disposal areas, investigate complaints of injury to humans or land, and sample pesticides being applied or to be applied. In addition to the authority to deny, suspend or revoke licensing and certification, the Department may assess a civil penalty of up to \$7,500 for failure to comply with the Act or the associated regulations. Violators are also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990

STATUTORY CITATION: W. Va. Code §§ 19-16A-1 - 19-16A-27

RELATED REGULATIONS: W. Va. Code R. §§ 61-12A-1 - 61-12A-12 and §§ 61-12B-1 - 61-12B-9

GENERAL SUMMARY: The West Virginia Pesticide Control Act regulates the use of pesticides in the state, largely by (1) requiring applicators to be licensed and certified, (2) requiring pesticide application businesses to post financial security for potential legal damages, (3) prohibiting certain practices by pesticide applicators, (4) establishing a process for receiving and investigating reports of pesticide-related damage, and (5) authorizing the state agriculture commissioner to adopt regulations governing such matters as recordkeeping, pesticide storage and disposal, and other safety protections.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — With some exceptions, no one may engage in the business of applying pesticides to anyone else's property without being licensed by the state as a pesticide application business, and individuals who use or supervise the use of restricted-use pesticides for hire or in their own agricultural operations must be certified as commercial or private applicators. In most cases, a license or certification in any such classification may not be issued unless the applicant passes an examination evidencing knowledge and ability to conduct the prospective pesticide activities safely and effectively.

FINANCIAL SECURITY — As a prerequisite to issuance of a pesticide application business license, the applicant must file proof of a surety bond or liability insurance policy, in an amount not less than \$300,000 for bodily injury or death and \$100,000 for property damage.

RECORDKEEPING — All commercial applicators are required to keep a record detailing each application of restricted-use pesticides performed by them or by someone under their supervision. The record must include the identity of the product used, the concentration or quantity applied, the date and place of application, the target pest involved, and the applicator's name. Private applicators and pesticide application businesses are subject to similar recordkeeping obligations.

PROHIBITED PRACTICES — Among others, the following practices are deemed violations of the Act and grounds for denial, suspension or revocation of an applicator's license and certification:

- Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- Refusing or neglecting to keep required records or make required reports.
- (4) Applying pesticides without the required classification of license, permit or certification, or without supervision by a properly licensed or certified applicator.
- (5) Applying pesticides contrary to label instructions, or contrary to state or federal use restrictions.
- (6) Failing to comply with any provision of the Act or the associated regulations.

DAMAGE REPORTS — Any person claiming damages from a pesticide application may file a report of the incident with the state enforcement agency within 60 days after the alleged damages occurred. If investigation confirms the validity of the claim, the state agency will make a report of its findings available to the parties involved.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY – Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209). This agency is responsible for the testing, licensing and certification of pesticide applicators in the state, and for assuring their compliance with the Act and the corresponding regulations governing their activities. Representatives of the Department are authorized to enter public or private property for the purpose of examining pesticide application equipment, inspecting lands exposed to pesticides, inspecting storage and disposal areas, investigating injury complaints, and sampling pesticides. In addition to suspension or revocation of licensing and certification, any applicator found to have violated these provisions is subject to both civil money penalties and criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

PESTICIDE LAWS

STATUTORY CITATION: Wis. Stat. §§ 94.67 - 94.71

RELATED REGULATIONS: Wis. Admin. Code Ch. ATCP 29

GENERAL SUMMARY: Chapter 94 of the state statutes contains, among other material, sections regulating the registration, manufacture, sale, use and disposal of pesticides. Of particular relevance to the safety and health of workers performing agricultural field operations are provisions requiring the certification and licensing of pesticide applicators, imposing recordkeeping duties on certified commercial applicators, defining certain prohibited acts involving pesticides, and authorizing the state agriculture department to adopt rules further prescribing the conditions under which pesticides may be used, when such regulation is necessary for the protection of people and property from serious pesticide hazards.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION AND LICENSING — In general, no one may apply any pesticide for hire without being licensed and certified as a commercial applicator by the state, and farm operators may not apply or supervise the application of restricted-use pesticides in connection with agricultural production on their farms without being certified as private applicators. Certification requires, in part, that the applicant demonstrate competence with respect to the use of pesticides in the category or categories of use for which certification is desired. For commercial applicators, competence must be determined on the basis of written examination, while private agricultural pesticide users normally may be certified either through training or by examination.

RECORDKEEPING — All commercial applicators must maintain a record of each use of pesticides. The record must document the type and amount of each formulation used, the location of the pesticide application, the date of application, and the use for which the treatment was intended. Records must be preserved for at least 2 years after the date of each use.

PESTICIDE STORAGE — Pesticides must be stored in accordance with label instructions and in such a way that labels are not damaged or destroyed. Storage areas generally must be secure against entry by children or the general public.

DISPOSAL OF PESTICIDES AND PESTICIDE CONTAINERS — No one may dispose of pesticides or pesticide containers in a manner contrary to the directions on the product's label or in any way which could create a hazard to humans, property, fish or wildlife. Except in connection with professional recycling, it is illegal to re-use pesticide containers for any purpose.

PESTICIDE DRIFT — No one may use a pesticide in a way that results in pesticide over-spray or drift.

PRE-HARVEST INTERVALS — It is illegal for a farm operator to harvest an agricultural commodity from the site of a pesticide application during the pre-harvest interval specified for that crop on the pesticide label.

DEFECTIVE APPLICATION EQUIPMENT — Use of pesticide application equipment that is clogged, unclean or in disrepair, or that cannot be properly calibrated, is prohibited.

WARNING SIGNS AT APPLICATION SITES — In a situation where (1) an agricultural pesticide label requires both posted and oral warnings before the product is applied, and (2) the application site is within 300 feet of a migrant labor camp or other residence, school, playground or similar facility where people are likely to be present during the restricted-entry interval specified on the pesticide label, either the pesticide applicator or the owner or operator of the property targeted by the application must post warning signs that meet the location, visibility and content requirements prescribed in the regulations.

PROHIBITED ACTS — It is unlawful for anyone to commit any of the following acts, among numerous others:

- To detach, alter, deface or destroy any part of a pesticide label, or alter the contents of a pesticide container.
- (2) To use any restricted-use pesticide contrary to its labeling or other limitations imposed on its use by federal or state law.
- (3) To use or supervise the use of pesticides without required certification, licensing or supervision.
- (4) To fail to maintain required records or make required reports.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

PRIMARY ENFORCEMENT AGENCY – Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545). The Department is responsible for the testing, certification and licensing of pesticide applicators in Wisconsin, and for assuring their compliance with the statutory and regulatory provisions applicable to pesticide users. Apart from loss of certification and licensing, a commercial or private applicator who violates the pesticide laws, or the associated rules or orders of the Department, is subject to a criminal fine and imprisonment, as well as civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973

STATUTORY CITATION: Wyo. Stat. §§ 35-7-350 – 35-7-376 RELATED REGULATIONS: Wyo. Code R. 010-0005 Ch. 28

GENERAL SUMMARY: The Wyoming Environmental Pesticide Control Act regulates the labeling, distribution, storage, transportation, disposal, use and application of pesticides. Among other provisions, the Act (1) requires the licensing of commercial pesticide application businesses, (2) requires the certification of commercial and certain private agricultural users of pesticides, (3) defines certain prohibited acts involving pesticides, and (4) confers broad rulemaking authority on the state board of certification to adopt more detailed standards for the safe use of pesticides.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS - It is unlawful for anyone to engage in any of the following practices, among others:

- Detaching, altering, defacing or destroying any part of a pesticide product label prior to disposal of the container.
- (2) Using any registered pesticide in a manner inconsistent with its labeling.
- (3) Refusing to keep required records.
- (4) Using any restricted-use pesticide unless properly certified to do so, or unless under the direct supervision of a certified applicator.
- (5) Using restricted-use pesticides in a manner inconsistent with the applicator's license or certification classification.

LICENSING AND CERTIFICATION OF APPLICATORS — In general, farm operators and their employees are prohibited from applying restricted-use pesticides to agricultural crops unless they are certified as private applicators. Among other conditions, certification requires each applicant to demonstrate competence in the use and handling of restricted-use pesticides, by passing a training course, completing an instruction workbook, or passing a written or oral examination.

Similarly, anyone who intends to engage in the business of applying pesticides on the property of another for hire must be certified as a commercial applicator, which requires passing an examination and meeting other qualifications.

RECORDKEEPING — Commercial pesticide applicators, as well as private applicators using restricted-use pesticides, must keep a record of each application of pesticides, including the name and address of the person for whom the product was applied, the location of the application, the crop treated, the target pest involved, the name and amount of the pesticide applied, the rate of application, the date of application, and the weather conditions at the time of application.

NOTIFICATIONS — Prior to each application, certified commercial applicators applying restricted-use pesticides must inform the customer of the name of the product to be used, the potential hazards of the residue, any re-entry periods prescribed, and any waiting periods prior to harvest.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975). The Department is responsible for licensing and certification of pesticide applicators in the state, and for monitoring their compliance with the statutory and regulatory standards applicable to their operations. Representatives of the Department are authorized to enter any public or private premises at reasonable times, for the purpose of examining pesticide equipment and devices subject to the Act, inspecting lands exposed to pesticides, observing pesticide applications, and investigating complaints of injury to humans or land. If inspection or investigation yields evidence of non-compliance, the Department may bring action in court to enjoin the violation. Any such infraction is punishable as a criminal misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (AERIAL APPLICATOR CERTIFICATION)

STATUTORY CITATION: 7 USC §§ 136 - 136y RELATED REGULATIONS: 40 CFR Part 171

GENERAL SUMMARY: Under rulemaking authority granted by the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency has adopted standards regulating the certification of commercial and private applicators who use or supervise the use of restricted-use pesticides applied by aircraft.

SPECIFIC TERMS AND CONDITIONS

In addition to satisfying the certification requirements applicable to all categories of pesticide applicators, as outlined in the previous entry, individuals seeking certification to apply restricted-use pesticides from the air — or to supervise aerial pesticide operations — are required to demonstrate practical knowledge of pest problems and pest control practices, including (among others) the following:

- (1) Labeling requirements and restrictions specific to aerial application of pesticides.
- How to choose, calibrate and maintain aerial application equipment.
- (3) Weather-related factors to consider before and during aerial application.
- (4) Methods for minimizing off-target pesticide drift.
- (5) Competency in performing aerial applications that avoid drift and assure individual and public safety.

Private applicators who use or supervise the use of restricted-use pesticides applied by fixed- or rotary-wing aircraft are subject to very similar certification requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "Pesticides & Agricultural Chemicals" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090). In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

FEDERAL AVIATION ACT OF 1958

STATUTORY CITATION: 49 USC §§ 44701 - 44702

RELATED REGULATIONS: 14 CFR Part 137

GENERAL SUMMARY: The Federal Aviation Act regulates the nation's air commerce and establishes controls over airspace, air traffic and navigation, primarily in the interest of public safety and national defense.

SPECIFIC TERMS AND CONDITIONS: Under the Act's rulemaking authority, the administrator of the Federal Aviation Administration has adopted regulations governing agricultural aircraft operations in the U.S. and the issuance of commercial and private agricultural aircraft operator certificates for such operations.

CERTIFICATION — With few exceptions, no one may conduct agricultural aircraft operations (including the application of pesticides and other agricultural chemicals) without an agricultural aircraft operator certificate issued by the FAA. Prerequisites for a certificate include all of the following:

- A commercial or private pilot's license.
- (2) An airworthy and certificated aircraft.
- (3) Passage of a knowledge test, covering (a) pre-flight preparations, (b) safe handling of pesticide products and proper disposal of used containers, (c) general effects of exposure to such products and precautions to be observed in their use, (d) symptoms of poisoning, emergency treatment measures and location of poison control centers, (e) performance capabilities and limitations of the aircraft to be used, and (f) safe flight and pesticide application procedures.

(4) Passage of a flight skill test, which includes certain prescribed maneuvers commonly performed in aerial pesticide applications.

A facsimile of the agricultural aircraft operator certificate issued to a pilot must be carried on each aircraft the pilot uses for aerial pesticide application purposes. The original certificate, as well as the registration and airworthiness certificates issued for the aircraft itself, must be kept available for inspection at the operator's base location.

OPERATING RULES — Pilots dispensing pesticides and other agricultural chemicals must follow specific rules covering aircraft design, equipment, personnel, and operating procedures. Among other restrictions, no one may dispense any material or substance from an aircraft in a manner that creates a hazard to persons or property on the ground, and aerial applicators may not apply any pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act for a use other than that for which it is registered, or contrary to any safety instructions or use limitations on its label.

RECORDS AND REPORTS — Every holder of a commercial agricultural aircraft operator certificate must maintain current records showing (1) the name and address of each person for whom agricultural aircraft services were provided, (2) the date each service was performed, (3) the name and quantity of the pesticide or similar product dispensed for each operation conducted, and (4) the name, address and certificate number of each pilot involved in the operation and the date each pilot met the knowledge and skill requirements described above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Enforcement Division, Federal Aviation Administration, U.S. Department of Transportation, Washington, D.C. 20591 (202-267-5158). Anyone with knowledge of a violation of the agricultural aircraft operations regulations may report it to any FAA regional or district office. The FAA is authorized to conduct investigations, hold hearings, issue subpoenas, require the production of relevant documents, records and property, and take evidence. Individuals or firms found in violation are subject to civil money penalties, seizure of aircraft, suspension or revocation of certification, and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alaska

STATE ENVIRONMENTAL CONSERVATION LAWS (AERIAL PESTICIDE APPLICATIONS)

STATUTORY CITATION: Alaska Stat. § 46.03.320

RELATED REGULATIONS: Alaska Admin. Code Title 18, § 90.505

GENERAL SUMMARY: In order to help conserve, improve and protect the state's environment and natural resources, Alaska's environmental conservation laws authorize broad controls over the registration, labeling, sale, transportation, handling and use of pesticides. In addition to the general standards outlined above, this authority includes provisions governing pesticide applications by aircraft.

SPECIFIC TERMS AND CONDITIONS: No one may direct, conduct, participate in or allow the use of a pesticide by aircraft or helicopter without first obtaining a permit from the state agency for each such use. The aerial permit application form requires detailed information regarding the product to be used, the location and size of the target area, the method of application, the certification of the aircraft to be used, and related details.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577). Representatives of the Department may, at reasonable times and with the consent of the owner or occupier, enter premises to investigate actual or suspected violations of the pesticide rules established under state law. This agency is empowered to issue compliance orders and to pursue civil action in the state courts against violators who fail to comply with such orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-361 – 3-377

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-101 - 3-3-506

GENERAL SUMMARY: Aside from provisions regulating the ground use of pesticides, the state pesticide control law and the associated regulations contain explicit language regarding the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person may operate an aircraft for the purpose of applying pesticides to agricultural crops unless the person has a valid agricultural aircraft pilot license and a valid commercial applicator certification, both issued by the state. To qualify for such a license, the applicant must pass an examination testing knowledge and understanding of pesticide use and safety, safe flight and application procedures, pesticide laws and regulations, and other subjects. Aerial applicators must also have a valid commercial pilot's certificate issued by the Federal Aviation Administration.

AIRCRAFT LICENSING AND CERTIFICATION — Like other pesticide application equipment, any aircraft used to apply pesticides for hire must have a valid state equipment tag, as well as an airworthiness certificate issued by the Federal Aviation Administration.

BUFFER ZONES — Certain designated pungent or highly toxic pesticide products may not be applied from the air within prescribed distances from schools, daycare centers, health care institutions and residences.

PESTICIDE MANAGEMENT AREAS — Within designated urban areas that are adjacent to farmlands and have a history of problems or complaints concerning aerial pesticide applications, applicators must notify the state agency at least 24 hours prior to applying certain chemical compounds from the air.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578). This agency is authorized to conduct investigations, on complaint or on its own initiative, regarding violations of the pesticide control law. A copy of every such complaint filed with the agency must be forwarded by the agency to the state attorney general, who must be consulted before final disposition of each case to ensure that proper action is taken. Enforcement measures available to the agency include citation, suspension or revocation of the pesticide applicator's license, and civil money penalties. Violators may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Anyone who is adversely affected may bring civil action in state court against a person alleged to be in violation of the pesticide control law or its regulations, or against the enforcement agency for alleged failure to perform any non-discretionary duty under the law. However, no private action may be undertaken before 60 days after the complainant has filed a complaint with the agency and notified the alleged violator, or if within those 60 days the agency begins and diligently performs the duty which is the subject of the complaint, nor may private civil action be taken if the attorney general is diligently prosecuting the case before the agency or in state court.

California

● STATE PEST CONTROL LAWS (AIRCRAFT OPERATION REGULATION)

STATUTORY CITATION: Cal. Food & Agric. Code §§ 11901-11940

GENERAL SUMMARY: The Food and Agricultural Code contains provisions which regulate the operation of aircraft engaged in pest control services. The Code requires, in part, that aerial pest control pilots be certified by the state and registered in each county in which they operate, and that aerial operators have adequate financial security to satisfy any legal judgment arising in connection with their crop dusting or spraying activities.

SPECIFIC TERMS AND CONDITIONS

PILOTS' CERTIFICATES — It is unlawful for anyone to operate an aircraft for pest control purposes unless the pilot flying the aircraft holds a valid pest control pilot's certificate issued by the state. Before an appropriate pest control aircraft pilot certificate is granted, the applicant must, among other conditions, pass an examination to demonstrate the pilot's ability to legally and safely conduct pest control operations and the pilot's knowledge of the nature and effect of pest control materials. After conducting aerial pest control under the supervision of a pest control aircraft pilot holding a valid journeyman certificate, the apprentice pilot can qualify to take the journeyman pilot exams. Pesticide aircraft operators must also have an appropriate and valid commercial pilot's certificate and a current medical certificate, both issued by the Federal Aviation Administration.

COUNTY REGISTRATION — No one may act as an aerial pest control pilot in any county in California without first registering with the county agricultural commissioner. Ag commissioners have the same authority as the state enforcement agency to revoke, suspend or refuse to issue such registration.

FINANCIAL RESPONSIBILITY — Any time a pest control aircraft operator is subject to a final legal judgment for damages resulting from an aerial pesticide application and the judgment remains unpaid for more than 30 days, the state enforcement agency must suspend the operator's license. The suspension will remain in effect until the judgment is satisfied or the operator submits proof of his or her financial ability to pay. Proof of financial responsibility may be met by furnishing evidence that the dusting or spraying activity which led to the judgment was covered by a surety bond or liability insurance policy, in an amount no less than \$25,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100). The Department is responsible for examining and certifying aerial pest control pilots in the state, and for monitoring compliance with statutory and regulatory standards applicable to their conduct. The Department may suspend, revoke, or refuse to issue a pilot's certificate if evidence presented at a hearing indicates the pilot is not qualified to conduct aerial operations or has violated any state pesticide-related law, regulation or order.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – County agricultural commissioners are responsible for the registration of aircraft pilots engaged in aerial pesticide application activities within their respective jurisdictions. Registration may be denied, suspended or revoked on any of the grounds specified as cause for denial, suspension or revocation of a pest control aircraft pilot's certificate.

Colorado

PESTICIDE APPLICATORS' ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-10-101 - 35-10-128

RELATED REGULATIONS: 8 Code Colo. Regs. § 1203-2-2.14

GENERAL SUMMARY: Under the general rulemaking authority of the Pesticide Applicators' Act, the state agriculture department has adopted licensing provisions specifically applicable to aerial applicators.

SPECIFIC TERMS AND CONDITIONS

Commercial applicators are prohibited from applying pesticides from the air without an endorsement on their license permitting them to do so. As a requirement for obtaining the endorsement, the applicant or licensee must present proof that at least one pilot employed by the applicant holds a commercial agricultural aircraft certificate issued by the Federal Aviation Administration. The licensee is required to notify the state agency whenever there is no longer a certified pilot in its employ, and the licensee must cease aerial pesticide application operations until satisfactory proof of certification of new personnel is furnished to the state agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056). The Department is responsible for the licensing and certification of commercial pesticide applicators in Colorado, including aerial operators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

■ CONNECTICUT PESTICIDE CONTROL ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Conn. Gen. Stat. §§ 22a-46 - 22a-66x

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22a-54-1 - 22a-54-3 and 22a-66-7

GENERAL SUMMARY: The Connecticut Pesticide Control Act confers broad authority on the state environmental protection department to adopt pesticide standards, including requirements and restrictions on the application of pesticides by air.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — No one may apply or offer to apply any pesticide or fertilizer by aircraft without first obtaining a certificate from the state authorizing aerial operations. Each applicant must be qualified to fly an aircraft, must pass an examination demonstrating competence to apply pesticides safely and effectively, and must maintain liability insurance coverage of at least \$100,000 for bodily injury (each occurrence) and \$100,000 for property damage (each occurrence).

AERIAL APPLICATION PERMITS — Before any pesticide or fertilizer may be applied to a crop or to land from the air, the owner of the crop or land must obtain a permit from the state. A permit may not be granted until the target area and surrounding property have been inspected and the applicant produces evidence that the material to be applied and the method of application will not harm public health, water, animal life or property.

REGULATORY RESTRICTIONS — No pesticide may be applied from the air to a tract of land less than 10 acres in size, unless the tract is part of a larger parcel of at least 10 acres. Before an aerial spray operation may be undertaken, a written release is generally required from any resident whose property is within 300 feet of the flight path of the airplane to be used, or within 200 feet in the case of application by helicopter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

FLORIDA PESTICIDE LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Fla. Stat. §§ 487.011–487.175

RELATED REGULATIONS: Fla. Admin. Code R. 5E-9.036

GENERAL SUMMARY: Regulations adopted under authority of the Florida Pesticide Law include standards relevant to application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS: Among other provisions spelled out in the regulations, aerial applicators must comply with these requirements:

REGISTRATION — Each aircraft used for aerial application of pesticides must be registered with the state enforcement agency each year.

PROOF OF INSURANCE — The individual or firm applying for registration must deposit a surety bond in the minimum amount of \$100,000 covering damage or injury to people or property as the result of aerial pesticide application by the registered aircraft. As an alternative, the applicant may file a certificate of insurance, verifying insurance coverage of not less than \$100,000 for property damage and \$300,000 for bodily injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997). This agency is in charge of examining and licensing pesticide applicators in the state, and monitoring their compliance with the Department's rules implementing the provisions of the law outlined above. Any worker or other person who suffers injury or property damage stemming from application of a pesticide may file a written statement with the enforcement agency. The Department must investigate the alleged injury or damage and notify all concerned parties of its findings. If investigation reveals a violation of the law, the Department will determine an appropriate administrative action, which may include a warning letter, license probation, license suspension or revocation, or an administrative fine. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

HAWAII PESTICIDES LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 149A-1 - 149A-53

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 4-66-1 - 4-66-67

GENERAL SUMMARY: In addition to its licensing provisions and general application standards, the Hawaii Pesticides Law authorizes state regulations governing the certification of aerial applicators and the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — Aerial pest control applicators must demonstrate broad knowledge regarding drift and drift control, weather effects, application equipment and techniques, and the potential for adverse effects of aerial applications on people, beneficial insects, wildlife, livestock, and non-target plants.

 $RECERTIFICATION - To \ qualify for \ renewal \ of \ an \ aerial \ applicator \ certificate, the \ holder \ must \ complete \ 25 \ hours \ of \ prescribed \ training \ or \ pass \ a \ written \ examination.$

AERIAL PERMITS — No one may apply a restricted-use pesticide by aircraft without obtaining a special permit issued by the state agency. Among other requirements that must be met before a permit is issued, the plantation or farm applying for the permit must state the purpose of the aerial treatment, identify the pesticide and dosage to be used, and submit a map or sketch showing the proposed site and the surrounding homes, roadways, waterways and agricultural fields. A permit may cover a single treatment, or may be issued for multiple or continuous treatments when conditions are not expected to change during subsequent treatments conducted in the same designated area.

OPERATING CONDITIONS — Spray equipment must be leakproof, and power rigs used for inter-row or broadcast applications must be equipped with a pressure control device and pressure gauge.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401). The Department is responsible for the certification of aerial pesticide applicators in the state and for monitoring the aerial application of pesticide products. Authorized representatives of the Department may inspect aerial application equipment and loading areas, and may take other measures to enforce these provisions. Civil or criminal penalties, ranging from a fine to a prison term, may be imposed for any infraction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

STATE PESTICIDE LAWS (AERIAL APPLICATORS)

STATUTORY CITATION: Idaho Code §§ 22-3401 – 22-3426

RELATED REGULATIONS: Idaho Admin. Code R. 02.03.03

GENERAL SUMMARY: The administrative rules adopted under the state pesticide laws include explicit provisions regulating the application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

RECORDKEEPING — In addition to the requirements applicable to other professional pesticide applicators, individuals and firms that apply pesticides commercially by aircraft must maintain a record of the time of day of each application of pesticides, and of the approximate wind speed and direction at the time of application.

OPERATING RESTRICTIONS — During spray operations, pilots are prohibited from turning or flying low over towns or densely populated areas without written authorization, or directly over an occupied structure (such as a housing facility or school) without permission from the owner of the structure. Aerial pesticide application is forbidden at any location when the sustained wind speed is over 10 miles per hour, or in wind conditions exceeding product label directions. Chemicals may not be applied when wind speed favors drift beyond the area intended for treatment, or when chemical distribution is adversely affected.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

LOUISIANA PESTICIDE LAW (AERIAL APPLICATORS)

STATUTORY CITATION: La. Rev. Stat. §§ 3:3201 - 3:3391.12

RELATED REGULATIONS: La. Admin. Code Title 7, §§ 1105 - 1113

GENERAL SUMMARY: As part of the regulatory framework established under the Louisiana Pesticide Law, the state agriculture commissioner has adopted specific rules governing the application of pesticide products by aircraft.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION — No one may apply pesticides from the air in Louisiana without being certified as a commercial applicator.

APPLICATION STANDARDS — With the single exception of mosquito control applicators, commercial applicators applying pesticides from fixed-wing aircraft must adhere to very specific requirements for booms, spray nozzles, and gallons-per-acre application restrictions.

TIME AND LOCATION LIMITATIONS — Aerial application of any pesticide is prohibited while it is raining. In general, no pesticide may be applied from the air within 100 feet from the edge of the swath to any inhabited structure, or within 1,000 feet of any school grounds during normal school hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476). A person who believes that he or she has suffered damages as a result of a pesticide application may file a damage complaint with the Department. Complaints must be in writing, on a form prescribed by the Department, signed, and submitted within 15 days after the alleged action or discovery of the damage, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

BOARD OF PESTICIDES CONTROL LAW (AERIAL APPLICATIONS)

STATUTORY CITATION: Me. Rev. Stat. Title 22, §§ 1471-A - 1471-X

RELATED REGULATIONS: 01 026 Me. Code R. Chs. 10 - 90

GENERAL SUMMARY: Under rulemaking authority granted by this statute, the Board of Pesticides Control has established standards governing aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

IDENTIFICATION OF TARGET SITE — The farm operator or other person contracting for an aerial pesticide application must ensure that the target area is positively identified beforehand, using GPS coordinates, effective site markings visible to the applicator, or some other method approved by the state agency.

SITE PLANS — Before any aerial application within 1,000 feet of a sensitive area that is likely to be occupied, the farm operator or other person contracting for the application must provide the applicator with a site plan that includes a map — drawn to scale — delineating the area's boundaries and property lines and showing significant landmarks, flight hazards and the sensitive areas involved.

APPLICATION CHECKLIST — Before conducting an aerial application within 1,000 feet of a sensitive area, the applicator is required to complete a state-approved pre-application checklist for each target site. Among other things, the checklist must include (1) the date and time, a description of the target site, and the name of the applicator, (2) confirmation that any required notifications have been carried out, (3) wind speed and direction, and (4) confirmation that there are no humans visible in or near the target area.

WIND SPEED LIMITS — Unless otherwise specified on the pesticide product label, an applicator may not conduct an aerial application within 1,000 feet of a sensitive area likely to be occupied unless the wind speed is between 2 and 10 miles per hour.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731). The Board is responsible for certification of pesticide applicators in the state and for monitoring their professional activities. For this purpose, representatives of the Board are authorized to enter any public or private premises at reasonable times to inspect application equipment, to inspect pesticide storage and disposal areas, to investigate complaints of injury or damage from pesticides, and to sample pesticides and pesticide residues on crops, soil, water or elsewhere in the environment. Anyone who violates any of the statutory provisions or the regulations issued thereunder is subject to a fine of up to \$500 for the first offense and a fine of no less than \$500 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

MAINE AERONAUTICS ACT (AGRICULTURAL AVIATION)

STATUTORY CITATION: Me. Rev. Stat. Title 6, § 151

GENERAL SUMMARY: Chapter 8 of the Maine Aeronautics Act includes a provision relevant to the use of aircraft in agricultural operations.

SPECIFIC TERMS AND CONDITIONS

Anyone applying pesticides from the air must adhere to federal regulations governing certification of pilots and aircraft and agricultural aircraft operations (see entry, U.S. — Pesticides & Agricultural Chemicals — Aerial Application Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Aeronautics, Maine Department of Transportation, Augusta, Maine 04330 (207-624-3000). In all parts of the state, Division inspectors have the same authority to investigate reported or suspected violations of the agricultural aviation regulations, and to make arrests for any such violation, as police and other local law enforcement officers have in their respective jurisdictions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

MASSACHUSETTS PESTICIDE CONTROL ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 132B, §§ 1 - 16

RELATED REGULATIONS: 333 Mass. Code Regs. 13.04

GENERAL SUMMARY: Under authority of the Pesticide Control Act, the agriculture department has adopted regulatory standards related explicitly to application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — No one is authorized to apply pesticides by aircraft unless specifically certified by the state as an aerial applicator.

AERIAL APPLICATION PERMITS — Before any airplane or other fixed-wing aircraft may be used to apply pesticides to a particular field, a permit must be obtained from the state enforcement agency at least 21 days prior to the application, authorizing treatment of the field. The state agency will not issue such a permit until it can be determined that aerial application will not, among other things, be likely to cause injury to humans.

POSTING — Agricultural fields that are within 500 feet of a protected area (such as a school, hospital, residence or other building where people gather) and that are targeted for treatment by pesticides from the air must be posted with warning signs between 2 and 24 hours before the application. The signs must remain in place at least 48 hours after the field is treated and be removed no sooner than the expiration of the product's restricted entry interval. Each sign — at least 14 inches by 16 inches in size, and in at least one-inch lettering — must include the words "Danger," "Pesticides," "Keep Out," and the corresponding terms in Spanish.

APPLICATION CONDITIONS — Among other restrictions, aerial agricultural applications are prohibited when there is visible drift to non-target areas, and pilots are generally forbidden to make turns over protected areas and bodies of water.

PRIMARY ENFORCEMENT AGENCY – Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781). Inspectors and other authorized representatives of the Department have the right to enter any premises, at reasonable times and with a properly executed search warrant, for the purpose of investigating specific complaints or suspected violations of the Pesticide Control Act. Both civil money penalties and criminal fines and imprisonment may be imposed on persons found to have violated any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (AERIAL PESTICIDE APPLICATORS)

STATUTORY CITATION: Mich. Comp. Laws § 324.8315

RELATED REGULATIONS: Mich. Admin. Code R. 285.636.1 - 285.636.17 and 285.637.1 - 285.637.17

GENERAL SUMMARY: In addition to the general standards and requirements outlined in the previous entry, Part 83 of the Natural Resources and Environmental Protection Act includes explicit provisions regulating the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

Before engaging in the aerial application of pesticides, a private agricultural or commercial applicator must meet at least one of these requirements: (1) have at least 3 years of experience, with not fewer than 200 hours of agricultural aerial application under the supervision of a commercial aerial applicator, (2) be licensed as a commercial aerial applicator before December 27, 1988, or (3) successfully complete a state-recognized aerial applicator training program.

In addition, once every 3 years, every aerial applicator must either (1) participate in a state-approved application flight-efficiency clinic, using an aircraft that the applicator operates, or (2) retake the certification examinations and submit to an inspection by the enforcement agency of the applicator's aircraft, equipment and spray operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

AGRICULTURAL AVIATION LICENSING LAW OF 2009

STATUTORY CITATION: Miss. Code §§ 69-21-101 - 69-21-128

RELATED REGULATIONS: 2 Miss. Admin. Code 1-3-10

GENERAL SUMMARY: The Agricultural Aviation Licensing Law regulates the licensing of persons engaged in the aerial application of pesticides, poisons, seeds, fertilizer and chemicals on agricultural lands in Mississippi, and requires the registration of all commercial agricultural aircraft in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

LICENSING AND REGISTRATION — It is unlawful for any person to dispense any pesticide, fertilizer or seed by aircraft, either as a pilot or as the operator of such a business, unless the person has an applicator's license or pilot's license issued by the state agriculture department for that purpose. Likewise, all aircraft used for aerial application of agricultural substances must be registered with the department.

FINANCIAL RESPONSIBILITY — Every individual seeking a license for aerial agricultural operations must submit proof of financial responsibility to the state licensing agency, in the form of a surety bond or a liability insurance policy, covering damages resulting from aerial applications. Liability coverage must be in an amount not less than \$100,000 for personal injury, \$300,000 for multiple injuries, and \$100,000 for property damage.

RECORDKEEPING — Aerial applicators are required to keep a record of each pesticide application. The record must include the date of the application, the product used, the rate of application, the crop or site treated, the target pest involved, the number of acres treated, the location of the site, the identity of the property owner, the wind velocity and other climatic conditions at the time of application, the name of the pilot, the registration number of the aircraft used, and a write-up on any accidents or other unusual occurrences during the application.

DUTIES OF THE CHIEF PILOT — The person designated as the chief pilot of an agricultural aircraft operation is responsible for supervision of the operation, for regularly checking records to assure compliance with the law, and for ascertaining that each pilot is aware of and complies with his or her responsibilities under applicable state and federal regulations.

PROHIBITED ACTIVITIES — The enforcement agency may suspend an aerial applicator's or pilot's right to do business in Mississippi if the agency finds that the applicator or pilot has, among other infractions, applied pesticides in a faulty or negligent manner, failed or refused to keep required records or make required reports, performed work in a category for which the applicator or pilot is not licensed, or been convicted of a violation of the federal pesticide laws. It is illegal for anyone in the state to use or apply a pesticide product in a manner inconsistent with its labeling.

APPLICATION RESTRICTIONS — The regulations adopted under the Agricultural Aviation Licensing Law include numerous restrictions on the conditions under which aerial pesticide applications may be conducted, and require applicators and pilots to have meteorological equipment on hand for measuring and recording the geographic coordinates of application sites, wind speed and direction, and air temperatures. Spray equipment is subject to very specific standards for prevention of drift.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390). The Department has charge of licensing aerial applicators and pilots under the Agricultural Aviation Licensing Law, inspecting agricultural aircraft and related equipment, and monitoring aerial agricultural operations in the state. In exercising its enforcement authority, the Department may suspend an applicator's or pilot's right to do business, revoke or suspend the individual's license, or take other appropriate action if it finds that the individual has violated any provision of the law or any of the Department's rules and regulations. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

PESTICIDE ACT (AERIAL APPLICATORS)

STATUTORY CITATION: Neb. Rev. Stat. §§ 2-2655 - 2-2659

RELATED REGULATIONS: 25 Neb. Admin. Code, Ch. 2, § 005.02B(12)

GENERAL SUMMARY: In addition to the general standards outlined in the previous entry, the Pesticide Act imposes explicit licensing requirements on aerial pesticide applicators.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may apply pesticides by use of an aircraft unless he or she holds a Nebraska aerial pesticide business license, or is employed by such a licensee. Moreover, a person licensed as a commercial applicator may apply pesticides from an aircraft only under the direct supervision of a person holding a Nebraska aerial pesticide business license. The license application must include, among other items, the FAA registration number of all aircraft owned, rented or leased by the applicant that will be utilized for aerial pesticide operations.

STANDARDS OF COMPETENCY — Aerial applicators must demonstrate practical knowledge specifically related to aerial spraying, including (1) aerial equipment calibration and maintenance, (2) target crops and pests, (3) pesticide drift and potential for non-target injury, and (4) re-entry intervals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

PESTICIDE CONTROL LAW (AERIAL APPLICATION)

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 - 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 506.01 - 506.10 and 901.01

GENERAL SUMMARY: New Hampshire's pesticide control law includes a provision explicitly requiring certain notifications prior to application of pesticides from the air, and authorizes the state pesticide control board to establish rules regulating the aircraft application of pesticides.

SPECIFIC TERMS AND CONDITIONS

PRIOR APPROVAL OF AERIAL APPLICATIONS — No one may apply pesticides by aircraft without first obtaining a permit to do so from the enforcement agency. The permit application must include, among other information, (1) the identities of both the pesticide applicator and the person requesting the service, (2) a description identifying the target organism, the method of application, the pesticide product to be used, and the number and dates of the proposed applications, (3) a detailed map of the treatment area, and (4) a list of all property owners having property within 1,320 feet of the treatment area.

PUBLIC NOTIFICATIONS —

- (1) If the proposed aerial application is in a non-residential area, at the same time that the permit application is submitted to the state pesticide enforcement agency, the applicant must publish a notice in a general-circulation newspaper in the affected area, and provide written notice to property owners within 1,320 feet of the treatment area and to certain public officials, summarizing the proposed aerial treatment and advising all parties that they have 15 days from the date of the notice to submit written comments to the state agency.
- (2) If residential, commercial or institutional buildings are located within 200 feet of the proposed treatment area, a written notice of any impending aerial pesticide application must be submitted to all persons owning, inhabiting or using the properties, no sooner than 60 days and no later than 14 days before the application is to begin. The notice must include a description of the treatment area, the name of and contact information for the applicator or the person requesting the service, the purpose of the application, the pesticides to be used, the date or range of dates during which the treatment will take place, the telephone number of the state pesticide enforcement agency, the telephone number of the New Hampshire Poison Control Center, and the public-related precautions that appear on the pesticide product label.

RECORDKEEPING — As are other classes of commercial applicators, aerial pesticide applicators are required to make and preserve a record of each application of pesticides, as described in the previous entry. In addition, however, aerial operators must submit each such record to the state agency within 7 days following the day of application.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550). Anyone who violates any provision of the pesticide control law, the associated regulations, or a Department order is guilty of a criminal offense and is also liable for a civil money penalty of up to \$5,000 and an administrative fine of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

PESTICIDE CONTROL ACT OF 1971 (AERIAL APPLICATION)

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 - 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30-10.6

GENERAL SUMMARY: In addition to more general regulatory provisions, the state environmental protection department has adopted rules dealing explicitly with aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

AERIAL APPLICATION EQUIPMENT — Equipment used in the application of pesticides from the air must be properly calibrated, free of leaks, and equipped with a prescribed shut-off system. Spray equipment must be thoroughly rinsed prior to application of a different, non-compatible substance.

AERIAL APPLICATION STANDARDS — Among other restrictions on aerial application, pesticides applied in liquid or dust form must generally be released within 15 feet above the target. Pesticide granules or pellets generally may not be released from an altitude any higher than 40 feet above the target.

DISTANCE LIMITATIONS — As a rule, no pesticide may be applied any closer than 100 feet from a private residence without the written consent of the occupant, or within 300 feet of an occupied school, hospital, nursing home, or any building used for business, social or religious purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568). The Department may suspend or revoke the license of any application business or applicator found to have violated any of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

NORTH CAROLINA PESTICIDE LAW OF 1971 (AERIAL APPLICATORS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 - 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .1000

GENERAL SUMMARY: Generally above and beyond the conditions and restrictions that the North Carolina Pesticide Law imposes on ground users of pesticides in the state, the statute and associated regulations contain licensing, inspection and other compliance provisions explicitly related to the application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

LICENSING — The contractor and each pilot involved in aerial application of pesticides must be licensed. Among other qualifications for licensing, a pilot must generally have at least 125 hours and one year's flying experience in aerial pesticide application activities. An applicant who lacks the required experience may be licensed as an apprentice aerial pesticide pilot, authorized to apply pesticides from the air but only under the direct supervision of a fully licensed aerial applicator. While overseeing an apprentice, the supervising pilot must operate out of the same airstrip as the applicator and be available periodically throughout the day to provide advice and assistance.

AIRCRAFT INSPECTION — Each aircraft used in the application of pesticides must be inspected annually and must bear a license plate or decal issued by the state enforcement agency. The agency may also conduct unannounced aircraft inspections, to determine if equipment is properly calibrated and maintained.

COMPLIANCE WITH FEDERAL REQUIREMENTS — A license to engage in the aerial application of pesticides will not be granted to an applicant who has not met federal requirements governing agricultural aviation operations (see entry, U.S. — Pesticides & Agricultural Chemicals — Aerial Application Standards).

RECORDKEEPING — In general, within 72 hours after each aerial application, the contractor or pilot must complete a written record of the treatment. In addition to other required information, the record must show the name and address of the person for whom the pesticide was applied, the location of the farm or other site treated, the crop involved, the total number of acres treated, the date and time of the application, the name of the pesticide used, the amount applied per acre, and the name of the pilot.

APPLICATION STANDARDS — Among many other restrictions and conditions prescribed by regulation, no pesticide may be applied from the air while anyone other than those assisting in the application are in the target area. Aerial spray equipment must be free of leaks and have shut-off systems to prevent release of pesticides over non-target areas. Pilots are required to observe specified precautions to prevent drift, and to comply with special rules when applying pesticides in restricted areas such as the immediate vicinity of dwellings, public roads, and public buildings.

HANDLING AND LOADING OF PESTICIDES — Pilots or workers handling or loading any pesticide product whose label displays the word "Danger" must wear approved respirators and protective clothing, including chemical-resistant gloves and boots. Water and detergent for personal washing must be available at all handling and loading sites.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556). Apart from the licensing process, representatives of the Department may enter public and private property to inspect aircraft and related equipment used in the aerial application of pesticides, in connection with either routine compliance monitoring or investigation of a specific complaint of injury or damage.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

AERONAUTICS LAWS (AERIAL SPRAYING)

STATUTORY CITATION: N.D. Cent. Code § 2-05-18

RELATED REGULATIONS: N.D. Admin. Code 6-02-02

GENERAL SUMMARY: The state aeronautics statutes include a provision which regulates the aerial spraying of pesticides in North Dakota, largely by requiring the licensing of aerial pesticide applicators and their compliance with administrative regulations adopted by the state aeronautics commission under the law's rulemaking authority.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR LICENSING — Every person or firm engaged in applying pesticides commercially by aircraft must be licensed by the state aeronautics commission as an aerial applicator, and a license decal must be affixed to each aircraft used by the licensee for aerial pesticide operations. As a precondition for licensing, pilots generally must have at least 250 hours of flight time in command of the type of aircraft to be used for agricultural spraying and meet other experience-related qualifications. In addition, operators of aerial application businesses (or their chief pilots) must attend state-approved training, attend an annual aerial applicator safety meeting, or receive the information provided at the annual meeting.

FAA-licensed private pilots may apply pesticides by aircraft to their own land, provided they (1) meet experience criteria similar to those applicable to commercial aerial applicators, (2) provide the state licensing agency with a legal description of the land they own or farm, and (3) do not offer pesticide application services to others for hire or for any other form of compensation.

AIRCRAFT REGISTRATION — All airplanes and helicopters used for aerial application of pesticides must be registered with the state prior to actual use and prior to issuance of an aerial applicator's license to the aircraft's owner or operator. Each such aircraft must be in good functional condition, free from obvious points of leakage and equipped with prescribed shut-off valves to prevent discharge of pesticides over non-target areas.

RECORDKEEPING — The owner, operator, pilot or other person in charge of an aerial pesticide operation must make and preserve for at least 3 years a record of each pesticide application. The record must include the same information as required by the state agriculture department under the Pesticide Act, outlined in the previous entry. By December 1 of each year, the licensee must file an annual summary with the state aeronautics agency, indicating the total number of acres treated for each category of application.

PRIMARY ENFORCEMENT AGENCY – North Dakota Aeronautics Commission, Bismarck, North Dakota 58502 (701-328-9650). The Commission is responsible for licensing aerial pesticide applicators, registering aircraft used to apply pesticides, and monitoring compliance with the procedural requirements imposed on aerial operators. In addition to license revocation, aerial pesticide applicators who violate any of the provisions applicable to their operations are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

PESTICIDE CONTROL ACT (AERIAL APPLICATION)

STATUTORY CITATION: 23 R.I. Gen. Laws §§ 23-25-1 - 23-25-39

RELATED REGULATIONS: R.I. Code R. 12 020 013, Rules 19 and 21

GENERAL SUMMARY: Under rulemaking authority in the Pesticide Control Act, the state environmental management department has adopted rules explicitly applicable to the aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — Applicants for licensing or certification who intend to apply pesticides from an aircraft must (1) post a \$100,000 performance bond, or (2) obtain a liability insurance policy with bodily injury coverage limits of at least \$100,000 per occurrence and \$200,000 aggregate, and property damage coverage of at least \$100,000.

PRIOR AUTHORIZATION OF AERIAL APPLICATIONS — No one may apply any pesticide by aircraft without prior written approval from the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

SOUTH CAROLINA PESTICIDE CONTROL ACT (AERIAL APPLICATION)

STATUTORY CITATION: S.C. Code §§ 46-13-10 – 46-13-240

RELATED REGULATIONS: S.C. Code Regs. 27-1070 - 27-1085

GENERAL SUMMARY: Under the rulemaking authority of the South Carolina Pesticide Control Act, the administering agency has adopted licensing and use standards explicitly applicable to aerial pesticide operations.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Like their counterparts operating on the ground, all persons who apply restricted-use pesticides by aircraft must either be licensed and certified by the administering agency, or work under the direct supervision of a certified licensed applicator. Licensing and certification require successful completion of a basic examination covering general subject matter and a specific test for aerial operators.

AIRCRAFT LOADING ZONES — Areas where pesticide aircraft are loaded must be adequately marked, and must also be posted with general warnings that toxic pesticides or pesticide containers may be stored in the area and that pesticides may have been spilled on the ground within the loading zone.

APPLICATION DISCLOSURES — With respect to each application of a pesticide, aerial applicators must provide their customers with a statement containing, at a minimum, (1) the name and address of the spraying firm or company, (2) the identity of the target pest or purpose of the pesticide application, (3) the chemical or common name of the pesticide's active ingredient, and (4) the name of the responsible licensed applicator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164). This agency is responsible for testing, licensing and certifying aerial operators and other pesticide applicators in the state, and for enforcing their adherence to the rules and regulations applicable to their operations. Enforcement officers may issue a stop-use order against the owner or custodian of a pesticide or pesticide device (including any aircraft used in the application of pesticides) whenever there is reasonable cause to believe it is being used in violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

AERIAL PESTICIDE APPLICATION LAW

STATUTORY CITATION: Tenn. Code §§ 43-8-301 – 43-8-315

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-03 and 0080-09-04

GENERAL SUMMARY: Chapter 8, Part 3 of the state agriculture statutes restricts the commercial aerial application of pesticides in Tennessee and contains rulemaking provisions authorizing administrative adoption of related regulations.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Before engaging in the application of pesticides by aircraft, a pilot must obtain a license from the state to do so. Issuance of a commercial aerial applicator's license requires the applicant, among other prerequisites, (1) to hold a valid license issued by the Federal Aviation Administration authorizing agricultural aircraft operations, and (2) to demonstrate proficiency in aerial pesticide application, by meeting the requirements of certification for that category of operation.

Aircraft licenses must be prominently displayed on each aircraft, and each pilot must carry his or her license at all times while engaged in aerial pesticide application activities.

 $INSURANCE - No \ aerial \ applicator's \ license \ may \ be \ is sued \ unless \ the \ applicant \ submits \ proof \ of \ liability \ insurance \ coverage \ in the \ amount \ of \ \$100,000.$

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). The Department is responsible for testing and licensing of aerial pesticide applicators in the state, and for monitoring their professional activities. After opportunity for hearing, the Department may suspend or revoke the license of any operator found to have violated the statutory or regulatory provisions applicable to aerial applicators, and may impose civil penalties of up to \$2,500 per violation. Operating without a license, using pesticides in a manner inconsistent with label instructions, or otherwise failing to comply with such provisions is a Class A misdemeanor, punishable by a fine of up to \$2,500, imprisonment for up to one year, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

AGRICULTURE CODE (AERIAL PESTICIDE APPLICATION)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 - 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code § 7.37

GENERAL SUMMARY: Under rulemaking authority in the Agriculture Code, the state agriculture department has adopted regulatory provisions requiring farm operators to provide workers, residents, and certain facilities with notification prior to aerial application of pesticides on nearby fields.

SPECIFIC TERMS AND CONDITIONS

NOTIFICATION RIGHTS — Anyone who works or lives within 1/4 mile of a field to which pesticides may be applied — as well as persons in charge of schools, hospitals, licensed daycare centers and similar facilities within 1/4 mile of a field to which pesticides may be applied — may request that the operator of the farm where the field is located provide prior notification of an aerial application of a pesticide to that field. The request must be in writing and must generally include (1) the name and address of the person making the request, (2) a home and work telephone number where the person can be reached, (3) the date of the request, (4) the location of the field for which the request is being made, and (5) a statement asking for notification prior to the aerial application of pesticides to the specified area. The request must be sent to the farm operator by certified mail.

EFFECTIVE DATES — A request for prior notification remains in effect through December 31 of the year the request is received. Under normal circumstances, the farm operator must begin providing notice within 10 days of receipt of the request.

TIME AND METHOD OF NOTIFICATION — In general, notification must be given no later than on the day before each scheduled aerial application, either by (1) raising a flag or posting a sign that conforms to state-prescribed standards of content and visibility, or (2) giving the notification in writing, in person or by telephone, in English and, when appropriate, in Spanish.

Exception — When an immediate pesticide treatment is required and time does not allow notification within the normal prior-day timeframe, the farm operator must give notice as soon as reasonably possible before the application.

CONTENT OF NOTICE — Regardless of how notification is given, it must include (1) the intended date and approximate time of application, (2) the name of the pesticide to be applied, and (3) the location of the field to which the application is to be made.

REMOVAL OF FLAGS OR SIGNS — Any flags or signs posted in compliance with a required notification must be lowered or removed within 24 hours after the pesticide re-entry interval expires. In no case may flags or signs be left up for more than 72 hours after the end of the re-entry period.

SPECIAL NOTES OR ADVISORIES

MANDATORY PRIOR NOTIFICATION OF FARM LABOR CAMPS — In the case of (1) labor housing that is located adjacent to a field targeted for an aerial pesticide application and owned, managed or controlled by the farm operator involved, or (2) a licensed farm labor camp located adjacent to or within 1/4 mile of a targeted field, no request for notification is required. The farm operator must provide notice no later than on the day before each scheduled aerial application, either (1) by telephone or in person to the head of each household residing in the camp, or (2) by written notice posted on a bulletin board to which camp occupants have access.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832). The Department is responsible for assuring compliance with the pesticide laws and the associated regulations. Under Chapter 7 of the administrative regulations, anyone within the affected area of an aerial application of pesticides who believes that the required warnings described above were not properly given prior to application, or who experiences adverse effects from any pesticide application, may file a complaint with the Department, which must investigate it and make a full written report. The law provides for both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Vt. Stat. Title 6, §§ 1101 - 1112

RELATED REGULATIONS: Vt. Code R. 20-031-012

GENERAL SUMMARY: In addition to the provisions regulating ground application of pesticides, the state agriculture agency has adopted explicit standards relevant to application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS: Individuals who apply pesticides from the air must be certified as aircraft pest control applicators and must obtain certification in the specific category of activity in which they will engage, which may include agriculture. To qualify for certification, the applicant must pass prescribed examinations to assure the individual's skill and knowledge regarding the safe application of pesticides from the air. Among the topics tested are weather and drift, calibration of aerial equipment, pesticide loading procedures, and labeling. Furthermore, aerial operators must obtain an annual permit before treating agricultural commodities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431). This agency is responsible for licensing and certifying aerial pesticide applicators in the state, and is authorized to revoke or suspend licensing and certification for failure to adhere to the regulations governing their operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE AERONAUTICS LAWS (OPERATION OF AIRCRAFT)

STATUTORY CITATION: Vt. Stat. Title 5, § 426

RELATED REGULATIONS: Vt. Code R. 14-010-001 Part XI

GENERAL SUMMARY: Section 426 of the Vermont aeronautics laws authorizes the state transportation agency to promulgate rules regulating the operation of aircraft engaged in crop dusting or spraying activities.

SPECIFIC TERMS AND CONDITIONS: At least 10 days before making a flight for the purpose of crop dusting or spraying pesticides, the owner of the aircraft to be used must apply to the state for authority to do so. Permission to conduct aerial pesticide operations must be renewed annually.

In addition to obtaining authorization under the state aeronautics laws, the applicator must also have a valid pesticide operator's or applicator's license issued by the state agriculture department for the appropriate type of aerial pesticide application to be performed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Aviation Section, Operations Division, Vermont Agency of Transportation, Montpelier, Vermont 05633 (802-828-2723). This agency is responsible for reviewing applications for authorization to apply pesticides by aircraft. Failure to comply with these provisions is punishable by a \$500 fine, imprisonment for up to 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-3475). This agency is responsible for certification of aerial pesticide applicators, which is a prerequisite for issuance of an annual permit to engage in aerial pesticide operations.

West Virginia

WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990 (AERIAL APPLICATION)

STATUTORY CITATION: W. Va. Code §§ 19-16A-1 - 19-16A-27

RELATED REGULATIONS: W. Va. Code R. § 61-12A-6.3.n

GENERAL SUMMARY: Regulations adopted under the West Virginia Pesticide Control Act include requirements explicitly relevant to aerial operations.

SPECIFIC TERMS AND CONDITIONS: In addition to demonstrating competence in agricultural plant pest control by passing a state-administered written examination, applicants for certification as aerial pesticide applicators must hold a valid agricultural applicator certificate from the Federal Aviation Administration. Like most other classes of commercial pesticide applicators, aerial applicators must have liability insurance or other financial security covering potential legal damages arising from their operations, in the minimum amount of \$300,000 for bodily injury or death, and \$100,000 for property damage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209). The Department is responsible for the testing, licensing and certification of aerial pesticide applicators in the state, and for assuring their compliance with the Act and the corresponding regulations governing their activities.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

PESTICIDE LAWS (AERIAL APPLICATION)

STATUTORY CITATION: Wis. Stat. §§ 94.67 - 94.71

RELATED REGULATIONS: Wis. Admin. Code § ATCP 29.53

GENERAL SUMMARY: In addition to general provisions governing ground applications of pesticides, the administrative rules established under the state pesticide laws also contain explicit standards regulating the aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply a pesticide from the air unless certified as an aerial applicator. In addition to the requirements for general certification, an aerial operator must (1) provide proof that he or she is licensed and fully trained to operate and apply pesticides with each type of aircraft used for that purpose, and (2) demonstrate competency and practical knowledge of aerial pest control, the health and environmental hazards related to aerial applications, and the prevention of pesticide over-spray and drift.

AIRCRAFT REQUIREMENTS AND OPERATIONS — Aircraft used to apply pesticides must meet state and federal standards, and must be operated in accordance with state and federal operating procedures.

PRIOR NOTICE OF APPLICATIONS — At least 24 hours before the application of any pesticide by aircraft, the owner of the land to be treated is required to notify the operators of all migrant labor camps immediately adjacent to the targeted areas, and to notify the residents of any closely adjoining property who give written request for such notification. The notification may be oral or written, but must include the intended date and time of the application, the identity of the pesticide product to be applied, and the location of the application site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545). The Department is responsible for the testing, certification and licensing of aerial pesticide applicators in Wisconsin, and for assuring their compliance with the statutory and regulatory provisions applicable to aerial operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973 (AERIAL APPLICATION)

STATUTORY CITATION: Wyo. Stat. §§ 35-7-373

RELATED REGULATIONS: Wyo. Code R. 010-0005 Ch. 28

GENERAL SUMMARY: The Wyoming Environmental Pesticide Control Act includes a provision requiring registration of aircraft used to apply pesticides, and the regulations adopted under the Act prescribe special competencies for certification of commercial aerial applicators.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION OF AIRCRAFT — Anyone engaged in the activity or business of applying pesticides by air must register each aircraft utilized for that purpose with the state each year. The registrant must provide the state agency with (1) the name of the aircraft's manufacturer and its model and type, (2) the identification number assigned to the aircraft, (3) the name of the aircraft's owner, and (4) the name of the user of the aircraft, if different from the owner. There is a \$25 annual registration fee.

CERTIFICATION OF AERIAL APPLICATORS — In addition to the general knowledge and competencies required of all categories of pesticide applicators, applicants for aerial certification must demonstrate practical knowledge of aerial equipment calibration and maintenance, as well as methods of avoiding problems associated with pesticide application from the air, such as drift and non-target injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975). This agency is responsible for the registration of aircraft used in aerial spraying, certification of aerial applicators, and the enforcement of application standards relevant to such operations.

U.S.

● FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (WORKER SAFETY)

STATUTORY CITATION: 7 USC §§ 136 - 136y RELATED REGULATIONS: 40 CFR Part 170

GENERAL SUMMARY: Under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency has adopted safety standards for the protection of workers performing agricultural crop production activities, key provisions of which are summarized below. The regulations require agricultural employers, as well as employers of commercial pesticide handlers, to provide information and protections to field workers, pesticide handlers and others when pesticides are used on agricultural establishments in the production of agricultural plants.

SPECIFIC TERMS AND CONDITIONS

AGRICULTURAL EMPLOYER DUTIES -

Information and Directions — Agricultural employers and farm managers must assure that pesticides are used in a manner consistent with each product's labeling, and must provide their field workers and pesticide handlers with information and directions sufficient to assure they receive the protection of these provisions. Farm employers must also provide any labor contractor or other person who supervises any workers or handlers with information and directions necessary for compliance with these provisions.

Emergency Assistance — If, within 72 hours after commencement of employment, a farmworker or pesticide handler has experienced a potential pesticide exposure or shows symptoms of such exposure and needs emergency medical attention, the employer is obligated to (1) provide transportation from the farm or worker housing area to an appropriate medical care facility for treatment, and (2) provide relevant information to the medical personnel treating the worker, including the identity of the pesticide involved and the related safety data sheet.

DISPLAY OF PESTICIDE SAFETY INFORMATION — If workers or handlers are at an agricultural establishment where a pesticide product has been used or a restricted-entry interval has been in effect within the last 30 days, the farm employer or manager is required to display and maintain certain pesticide safety information, in a format that workers can understand and at a location easily accessible to them. Among other items, the prescribed information must include (1) recommended clothing, bathing and laundering practices to minimize pesticide exposure, (2) decontamination procedures in case of accidental exposure, and (3) emergency medical contact information.

DISPLAY OF PESTICIDE APPLICATION AND HAZARD INFORMATION — If workers or handlers are at an agricultural establishment where a pesticide product has been used or a restricted-entry interval has been in effect within the last 30 days, the farm employer is required to display prescribed information related to each pesticide product used, and to make the information accessible to workers and handlers during normal work hours. Among other things, the information must include (1) a copy of the product's safety data sheet, (2) the name, EPA registration number and active ingredients of the product, (3) the location and description of the area treated, (4) the dates and times the application started and ended, and (5) the duration of the restricted-entry interval specified on the product label. The pesticide application and hazard information must be displayed no later than 24 hours after the end of the application; it must remain displayed until at least 30 days after the end of the last restricted-entry interval, or until workers or handlers are no longer at the farm establishment.

RETENTION OF RECORDS — Whenever application and hazard information is required to be posted, the agricultural employer must keep the information for 2 years after the date the restricted-entry period expired. A worker or handler employed at the establishment while the information was required to be displayed is entitled to see or make a copy of the information within 15 days of requesting access to it.

PROHIBITED ACTIONS — It is unlawful for employers of agricultural workers and employers of pesticide handlers to retaliate against a worker for attempting to comply with these provisions, or to prevent or discourage a worker from complying or attempting to comply.

AGRICULTURAL WORKER PROTECTION REQUIREMENTS —

Pesticide Safety Training — In general, before any worker enters an area where a pesticide has been applied or a restricted-entry period has been in effect within the last 30 days, the employer must assure that the worker has received prescribed training within the last 12 months. The training may be oral or in audio-visual format, but it must be presented by a qualified trainer and in a manner the worker can understand. Among other topics, the information presented must include (1) where and in what form pesticides may be encountered during work activities, (2) the hazards of exposure, (3) the routes through which pesticides can enter the body, (4) signs and symptoms of common types of pesticide poisoning, (5) emergency first aid for pesticide injuries or poisoning, (6) routine and emergency decontamination procedures, (7) how to obtain emergency medical care, (8) the hazards from pesticide residues on clothing, (9) warnings about taking pesticides or pesticide containers home, and (10) the responsibility of agricultural employers for providing the information and protections outlined above. Beginning January 1, 2018, the training must also include instruction regarding use of protective clothing and equipment, bathing and laundering procedures, and other practices that help reduce the risk of pesticide exposures and illnesses.

Entry to Treated Areas — After a pesticide application to an outdoor agricultural area, the farm owner or manager may not allow or direct anyone other than an appropriately trained and equipped pesticide handler to enter or remain in the treated area. After a pesticide treatment, workers generally are not allowed to re-enter the area before the restricted-entry interval specified on the pesticide label has expired and all treated area warning signs have been removed or covered.

Notice of Applications — Farm employers must provide workers with appropriate and timely notice of impending pesticide applications. In the case of a pesticide whose label requires both posted notification at the site of the treatment and oral notification of the workers, the employer must:

- (1) Post signs of prescribed size that include the signal words "Danger," "Pesticides," and "Keep Out," in English and a non-English language read by the largest group of non-English-reading workers. The signs must be posted no sooner than 24 hours before the scheduled pesticide application, remain posted throughout the application and any restricted-entry period, and be removed within 3 days after the application or any restricted-entry period ends.
- (2) Give workers oral warning, in a manner they can understand. Workers on the premises must receive the warning before the application begins; otherwise, the warning must be given at the start of the workers' first work period during which the application is taking place or the restricted-entry interval is in effect. The warning must include the location of the treated area, the time during which entry is restricted, and instructions not to enter the treated area until the restricted-entry period has expired.

Where the pesticide label does not require double notification, outdoor application of a pesticide with a restricted-entry interval of more than 48 hours generally requires posted notification only; in the case of products with restricted-entry intervals of 48 hours or less, the employer must notify workers of the application either by posting prescribed warning signs or giving prescribed oral notification.

Decontamination Supplies for Workers — For any agricultural worker who is performing an activity in an area where a pesticide was applied and who comes into contact with soil, water or plants treated with the product, the farm employer or manager is required to provide decontamination supplies for routine washing and emergency decontamination, including at least one gallon of water per worker and a supply of soap and single-use towels. These materials must be located no more than 1/4 mile from where the workers are working, or at the nearest place of vehicular access outside the treated area.

AGRICULTURAL PESTICIDE HANDLER PROTECTION REQUIREMENTS — Workers who are employed to mix, load, transfer or apply pesticides, or who deal with pesticide application equipment or assist with pesticide applications (including acting as flaggers), are covered by protections very similar to those outlined above that apply to agricultural workers. These include, among other things, requirements for safety training, knowledge regarding labeling requirements associated with each pesticide product used, the prohibition against exposing workers and others to pesticides by contact, the provision and use of personal protective equipment, and the provision of decontamination and eye-flushing supplies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "Pesticides & Agricultural Chemicals" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090). In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

Arizona

STATE AGRICULTURAL SAFETY LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-3101 - 3-3125

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-1001 - 3-3-1012

GENERAL SUMMARY: Chapter 17, Article 1 of the state agriculture statutes authorizes adoption and enforcement of rules prescribing safe work practices for employees who mix, load, apply, store or otherwise handle agricultural pesticides, and for workers who may be exposed to pesticides when or after they are applied.

SPECIFIC TERMS AND CONDITIONS: In addition to enforcing the worker protection standards prescribed by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards), the state agriculture department has adopted additional rules regulating the safety and health of workers exposed to pesticides.

PESTICIDE SAFETY INFORMATION — Agricultural employers are required to provide their workers (other than certified applicators or trainers) with prescribed safety information before the workers enter an agricultural area where pesticides have been applied or a restricted-entry interval has been in effect within the last 30 days. The information must include the identity of the pesticides involved, as well as how workers may prevent exposure by (1) following directions or signs, (2) washing hands, (3) using protective clothing, (4) bathing after work, (5) washing work clothes, and (6) following emergency procedures in the event of spills or other over-exposure.

PESTICIDE SAFETY TRAINING — Agricultural employers must provide prescribed safety training to each worker who enters a pesticide-treated area. Instruction must be provided in a language easily understood by the worker and must cover (1) pesticide hazards and effects, (2) common symptoms of pesticide poisoning, (3) emergency first aid for pesticide injuries or poisoning, and (4) the requirements related to pesticide application and entry restrictions and posting of warnings. An EPA-approved training verification card must be issued to each worker who completes the training.

NOTIFICATIONS — The owner or operator of an agricultural establishment that utilizes the services of a farm labor contractor must notify the contractor of the restrictions on entering a pesticide-treated area, if the area is within '/* mile of where workers will be working and the treated area is not posted as required or allowed under EPA regulations. The contractor, in turn, is required to notify the workers regarding the identity of the pesticide product used, the date and time the product was or will be applied, and the product's restricted-entry interval.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

STATE PEST CONTROL LAWS (WORKER SAFETY)

STATUTORY CITATION: Cal. Food & Agric. Code §§ 12980-12988

RELATED REGULATIONS: Cal. Code Regs. Title 3, §§ 6700-6795

GENERAL SUMMARY: Division 7 of the California Food and Agricultural Code contains, among other subject matter, provisions requiring agricultural employers to observe specific requirements related to the safety of pesticide handlers and field workers potentially exposed to pesticides.

SPECIFIC TERMS AND CONDITIONS

HAZARDOUS AREAS — If a field is suspected of having been a source of pesticide-related illness, or a potential source of illness, the state agency or county agricultural commissioner may prohibit entry of workers into the treated area. If entry is allowed, medical supervision for workers who will enter the area and have substantial contact with crops or plants may be ordered, and protective clothing and equipment may be prescribed for use by such workers.

APPLICATION EXCLUSION ZONES — No employer may direct or allow non-handler employees into an application exclusion zone (AEZ), defined as an area surrounding application equipment where no entry is permitted during an application. AEZ boundaries are measured from the application equipment as it moves in or over the field being treated. The boundary range can be from 25 to 100 feet, depending on the type of application method.

FIELD WORKER SAFETY — Agricultural employers must comply with the standards summarized below, among others, to protect the safety of field workers who may be exposed to pesticides or pesticide residues through entry into areas treated with pesticides.

Hazard Communication — Whenever employees are working as field workers in a treated field, the employer must display at the worksite or a central gathering place certain prescribed safety informational leaflets provided by the Department of Pesticide Regulation. The employer must also maintain pesticide use records and a safety data sheet for each pesticide listed in those records, and must furnish them to their employees, employees of a labor contractor, or treating medical personnel upon request.

Application Information — Before workers are allowed to enter any field treated with a pesticide, the employer must display at a central location specific information about the treatment, including the specific location, the date and time of the application, the names of the products involved, and a copy of the safety data sheets for the pesticides applied.

Field Work During Pesticide Applications — It is illegal to direct or allow any person (other than those who are involved in the application and are wearing protective clothing or equipment) to enter or remain in a treated area of a field during the application.

Training — Employers must assure that every employee assigned to work in a treated field has received prescribed pesticide safety training within the preceding 12 months before beginning to work in a treated field. The training must be conducted in a manner the employee understands, in a reasonably distraction-free environment, and must include topics such as pesticide hazards, routes of exposure, entry intervals, signs and symptoms of over-exposure, first aid, and employee rights.

Emergency Medical Care — Emergency medical care for workers who enter fields treated with pesticides must be planned for in advance. The employer must locate a facility where emergency care is available, and the workers or their supervisor must be informed of the name and location of a physician or medical facility where such care is available. When there is reason to suspect that an employee has a pesticide illness or over-exposure, the employer must ensure that the employee is taken to a physician immediately. Treating medical personnel must be given copies of the applicable safety data sheets, product names, EPA registration numbers, active ingredients for each pesticide product, and the circumstances of the application or use of the pesticide and how exposure could have resulted.

Decontamination Facilities — Not more than 1/4 mile from where field workers are at work (or at the nearest point of vehicular access), the employer must provide a prescribed amount of water, soap and single-use towels for washing of hands and face, and for emergency eye flushing. Employees must be told where the decontamination site is before they enter a treated field.

Field Re-Entry After Pesticide Applications — Under most circumstances, workers are not permitted to enter any area treated with a pesticide until the farm operator has been notified that the application has been completed and the restricted-entry interval has expired.

Warning Signs — Employers must post warning signs around treated fields in many circumstances, including (1) whenever required on the pesticide product label, (2) whenever applications are made in an entirely or partially enclosed space, (3) applications that result in a restricted entry interval of greater than 4 hours, or (4) in the case of an outdoor application with a restricted-entry interval greater than 48 hours. Warning signs must be in English and Spanish (or other language read by a majority of workers who do not read English), at points of entry around the fields involved and along unfenced adjacent public roadways. The signs must be of prescribed size and include the skull and crossbones symbol and the words "Danger" and "Keep Out." Warning signs must be posted no sooner than 24 hours prior to application, may not be removed during the prescribed re-entry period, and must be removed no later than 3 days after the end of the re-entry period and before workers are allowed to re-enter the fields to perform crop maintenance or harvest operations.

SAFETY OF PESTICIDE HANDLERS — Among many other detailed requirements, the regulatory provisions outlined below apply to employees who mix, load, apply or assist in applying pesticides.

Minimum Age — Handlers, other than members of the owner's immediate family, must be at least 18 years old.

Hazard Communication — Before employees are allowed to handle pesticides, the employer must display at a central location at the workplace certain prescribed informational leaflets provided by the Department of Pesticide Regulation. The employer must also maintain pesticide use records and a safety data sheet for each pesticide listed in those records, and must furnish them to their employees.

Training — Among other requirements, employers of pesticide mixers, loaders, applicators (other than certified applicators) and their assistants must provide safety training to each such employee. Training must cover a range of topics, including the hazards involved, safety procedures to be followed, protective clothing and equipment, the common symptoms of pesticide poisoning, sources of emergency medical treatment, the purposes and requirements for medical supervision, pesticide label requirements, and related laws and regulations. Training must occur before any pesticide worker is allowed to handle pesticides, and at least once a year thereafter.

Medical Care and Supervision — The employer must make arrangements for medical care in the event of pesticide-related emergencies, as well as for medical supervision of workers exposed to certain highly toxic pesticides for prolonged periods of time. Treating medical personnel must be given copies of the applicable safety data sheets, product names, EPA registration numbers, active ingredients for each pesticide product, and the circumstances of the application or use of the pesticide and how exposure could have resulted.

Restrictions for Persons Working Alone — An employee working alone during daylight hours mixing, loading or applying certain especially toxic pesticides is required to make radio, telephone or face-to-face contact with a responsible adult at least once every 2 hours (at least once every hour, if working at night).

Changing Facilities — At each site where handler employees mix or load certain prescribed classes of pesticides, the employer must provide a pesticide-free area where workers can change clothes, store their change of clothes, and wash themselves. Clean towels, soap and sufficient water must be available for thorough washing.

Decontamination Facilities — Not more than 1/4 mile from where employees are handling pesticides, the employer must provide a prescribed amount of water, soap and single-use towels for routine washing of hands and face, and for emergency eye flushing and washing of the entire body.

Work Clothing and Safety Equipment — When required by product labeling, the employer must provide prescribed personal protective equipment — including safety glasses and gloves — for each mixer, loader, flagger or applicator of specified toxic pesticides.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100). At reasonable times, without prior notification, representatives of the Department and county agricultural commissioners have authority to enter and inspect property where pesticides are stored, mixed or loaded for application, and the fields and other areas where pesticides have been or are being applied, to determine compliance with the worker safety regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – With respect to the worker safety standards, local health officers are charged with the responsibility of investigating any condition where a health hazard from pesticide use exists, and must take necessary action, in cooperation with the respective county agriculture commissioners, to abate any such condition.

Florida

FLORIDA AGRICULTURAL WORKER SAFETY ACT

STATUTORY CITATION: Fla. Stat. §§ 487.2011-487.2071

GENERAL SUMMARY: The Florida Agricultural Worker Safety Act requires agricultural employers in the state to provide certain pesticide safety information to their employees who may enter an area recently treated with an agricultural pesticide or otherwise may be exposed to it.

SPECIFIC TERMS AND CONDITIONS

PESTICIDE INFORMATION — To each worker who enters an area that has been treated with a pesticide within the past 30 days, or where a restricted-entry interval has been or is still in effect, the employer must provide a fact sheet or safety data sheet on the particular pesticide involved. The information must be provided within 2 working days after the worker requests it.

PROHIBITED ACTS — It is illegal for farm employers to fail to provide the required agricultural pesticide information to their workers, or to retaliate in any way against a worker for exercising any right afforded under this law.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A worker who has been fired, disciplined or discriminated against for having requested any information to which he or she is entitled under the Florida Agricultural Worker Safety Act may file a complaint with the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997). The Department has authority to investigate any complaint alleging a violation of this law, provided that the complaint is submitted in writing and signed by the complainant.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

PESTICIDE CONTROL LAW (WORKER PROTECTION)

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 – 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 1100

GENERAL SUMMARY: New Hampshire's pesticide control law authorizes the state pesticide control board to adopt specific rules for the protection of people and property against the adverse effects of pesticides.

SPECIFIC TERMS AND CONDITIONS: Under the rulemaking authority mentioned above, the pesticide control board has adopted standards requiring pesticide safety training for workers exposed or potentially exposed to agricultural pesticides in the field.

TRAINING — Agricultural employers who use any pesticide product whose label references EPA's worker protection standard (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards) are required to provide pesticide safety training to their workers. The training requirement — which applies to workers who mix, load or apply pesticides and to those who may come into contact with pesticides in the field — must conform with both EPA and state regulatory requirements.

VERIFICATION OF TRAINING — Workers who complete training provided by a qualified pesticide safety trainer must receive a signed certificate confirming the date of training, the trainee identification number, the name of the trainer, and the location where the training was provided. The certificate is valid for 5 years.

RECORDKEEPING — Each qualified safety trainer is required to keep a record for each worker he or she trains. The record must include (1) the name and signature of the worker, (2) the ID number assigned to the worker, (3) the training date, (4) the address of the training location, (5) the type of training received, (6) the trainer's name and certification number, (7) the method of training and the materials used, and (8) a statement signed by the trainer affirming that all training was performed in accordance with EPA requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

PESTICIDE CONTROL ACT OF 1971 (AGRICULTURAL WORKER PROTECTION)

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 - 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30, Subchs. 8 and 12

GENERAL SUMMARY: Apart from the general and aerial application regulations, the state environmental protection department has adopted rules dealing explicitly with pesticide-related farmworker safety.

SPECIFIC TERMS AND CONDITIONS: Among the detailed requirements and restrictions included in the worker protection regulations are the following, which apply largely to farmworkers engaged in crop activities in the field and not directly involved in applying pesticides themselves.

ENTRY RESTRICTIONS — After an application of any pesticide to an agricultural field or in an agricultural workplace, the farm operator generally may not allow or direct any worker to enter or remain in the treated area before the restricted-entry interval specified on the pesticide label has expired. However, no sooner than 4 hours after a pesticide application, a worker may enter and remain in a treated area for up to an hour during a restricted-entry period if, among other requirements, (1) the worker uses the personal protective equipment prescribed on the product label, (2) no hand labor is performed, and (3) the worker has read the product labeling or had it explained.

WARNINGS TO WORKERS — Unless an agricultural employer is certain that no worker will enter, work in, remain in, or pass through the treated area on foot during an application of a pesticide and during its restricted-entry interval, the employer is required to notify workers of any pesticide application on the farm. If the product label requires that the notification be posted, the warning signs must (1) be of prescribed size and content, with the words "Danger," "Pesticides," "and "Keep Out," in English and the native language understood by the workers, (2) be posted no sooner than 24 hours before the scheduled application, at locations visible from all points of worker entry or at the corners of the treatment area, and (3) be removed within 3 days after the expiration of the restricted-entry period. Among other required information, the posted warnings must include the name of the crop to be treated, the identity of the pesticide to be used, the safe re-entry time, and the date and location of the application. A map of the farm clearly designating the fields to be treated must be posted at the same location.

If the label requires or al warnings, they must generally be given before the application commences, in language easily understood by the worker, and include (1) the location and description of the treated area, (2) the time during which entry is restricted, and (3) instructions not to enter the treated area until the re-entry period has expired.

PESTICIDE SAFETY TRAINING -

Orientation — On the first day of an agricultural worker's employment, or at least one day prior to his or her assignment to a field that has been treated within the past 30 days, the agricultural employer must assure that the worker has received an employee orientation at least once during each year of employment. The orientation must cover topics including, among others, (1) re-entry, and how workers are informed about re-entry, (2) the location of handwashing facilities, clean clothes and protective clothing, (3) where to obtain immediate decontamination, (4) a review of required bulletin board information, and (5) the availability of pesticide fact sheets.

Safety Information — Before a farmworker enters any area where a regulated pesticide has been applied within the last 30 days, or where a restricted-entry interval has been in effect, the employer must assure that the worker has received certain pesticide safety information, including (1) how pesticide exposure can occur, and (2) how pesticides can be prevented from entering the body. The information may be in oral or written form, but it must be presented in a manner that the worker can understand.

Training — Before the 6th day that a worker enters any area where, within the last 30 days, a regulated pesticide has been applied or a restricted-entry interval has been in effect, the agricultural employer must assure that the worker has been trained. Training must be provided by an individual who meets state qualifications and must be presented in a way that the worker can understand. Among other content requirements, the training must include (1) how pesticides may be encountered during work activities, (2) the hazards of pesticide exposure, (3) the routes through which pesticides can enter the body, (4) the symptoms of pesticide poisoning, (5) emergency first aid for pesticide injuries and poisoning, (6) how to obtain emergency medical care, (7) decontamination procedures, (8) the hazards of chemigation and drift, (9) the hazards of pesticide residues on clothing, (10) warnings about taking pesticides or pesticide containers home, (11) the regulatory requirements designed to reduce the risk of illness and injury, and (12) worker rights under state and federal laws.

DECONTAMINATION FACILITIES — If any agricultural worker performs an activity in an area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect, and the worker contacts anything that has been treated with the pesticide, the agricultural employer is required to provide a decontamination site for washing off pesticide residues. The decontamination site must be reasonably accessible to where workers are working, located at the same site as the required portable toilets, and not in an area where pesticides are being applied. Decontamination facilities must include enough clean, suitably cool water for routine washing and emergency eye-flushing, along with soap and single-use towels.

EMERGENCY ASSISTANCE — If there is reason to believe that a farmworker employed at an agricultural establishment has been poisoned or injured by exposure to pesticides used on that establishment, the agricultural employer must make available prompt transportation of the worker from the farm or labor camp to an appropriate medical facility. Likewise, the employer must provide the worker, or to the medical personnel treating the worker, all relevant and available information, including (1) the name, EPA registration number, and active ingredients of the pesticide product involved, (2) antidote, first aid or other medical information from the product label, (3) the circumstances of the application or use of the product at the agricultural establishment, and (4) the circumstances of the victim's exposure to the product.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

NORTH CAROLINA PESTICIDE LAW OF 1971 (WORKER PROTECTION)

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 - 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .1800

GENERAL SUMMARY: Under authority of the North Carolina Pesticide Law, the state pesticide board has adopted worker protection standards for agricultural pesticides.

SPECIFIC TERMS AND CONDITIONS

STANDARDS — North Carolina has adopted and currently enforces the worker protection standards developed by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

ADDITIONAL NOTIFICATIONS — In addition to the information required by the EPA regulations to be posted when workers are in a location where restricted-use pesticides have been applied within the last 30 days or a restricted-entry interval has been in effect, the specific time of day when each pesticide application was completed must be recorded immediately upon completion of the application. The farm employer is required to keep all such records for a period of at least 2 years from the specific time of day when each pesticide application was completed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

PESTICIDE LAW (AGRICULTURAL WORKER SAFETY)

STATUTORY CITATION: Ohio Rev. Code § 921.16(C)(5)

RELATED REGULATIONS: Ohio Admin. Code 901:5-11-19

GENERAL SUMMARY: Apart from provisions relevant to the licensing and conduct of applicators, the pesticide law confers broad authority on the state director of agriculture to adopt rules requiring, among other things, (1) the protection of field workers storing, handling or applying pesticides, and (2) the protection of occupants of agricultural labor camps who are living or working in the vicinity of pesticide-treated areas.

SPECIFIC TERMS AND CONDITIONS: Using the pesticide law's rulemaking authority, the state agriculture director has adopted the worker protection standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards) as the safety standard for pesticide workers in Ohio. It applies to all agricultural workers and handlers working with, in or around pesticides.

No pesticide safety rules have been adopted explicitly addressing the protection of occupants of agricultural labor camps.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

OREGON SAFE EMPLOYMENT ACT (WORKER PROTECTION)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-6000, 437-004-1005, and 437-004-1041

GENERAL SUMMARY: The Oregon Safe Employment Act includes explicit language authorizing the state consumer and business services department to adopt standards requiring agricultural employers to provide adequate safety equipment and adequate training for workers mixing, loading, applying or otherwise handling hazardous chemicals.

SPECIFIC TERMS AND CONDITIONS

EPA WORKER PROTECTION STANDARD — Using the authority noted above, the consumer and business services department has adopted the worker protection standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards), applicable to all agricultural workers and handlers working with, in or around pesticides. In addition, the department has adopted related rules especially relevant to the safety and health of workers exposed to pesticides, briefly summarized here:

PERSONAL PROTECTIVE EQUIPMENT — Farm employers are required to assess their workplaces to determine if hazards exist, or are likely to be present, which would make the use of personal protective equipment necessary to protect their workers. If so, employers must select appropriate protective equipment and ensure that each exposed employee use it. The employer is responsible for paying the cost of specialty-type equipment, but the workers must pay for everyday protective items like gloves, long-sleeve shirts, long pants, conventional boots, broad-brim hats, and sunscreen.

Workers who are required to use personal protective equipment must receive training in its use, provided by the employer. Training must cover such topics as (1) when protective equipment is necessary, (2) how to put on, adjust and remove the equipment, and (3) the proper care, maintenance, storage and disposal of the equipment.

RESPIRATORY PROTECTION — When necessary to protect a worker against the adverse health effects of breathing airborne pesticides or other agricultural chemicals, a farm employer is required to provide the worker with a respirator and the worker is required to use it. Moreover, the employer must have an effective, written respiratory protection program that includes procedures for (1) selecting, fitting, maintaining and discarding respiratory equipment, and (2) training workers in the respiratory hazards to which they may be exposed and the effective use of respiratory equipment. In some situations, the program may include certain prescribed medical evaluations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Representatives of Oregon OSHA are authorized to enter and inspect agricultural workplaces in the state, and to cite employers found in violation. Non-compliance with an applicable standard or an order by Oregon OSHA may result in assessment of a civil money penalty by the agency and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). This agency is responsible for enforcing the anti-retaliation provision noted above.

Puerto Rico

PESTICIDE ACT OF PUERTO RICO (WORKER PROTECTION)

STATUTORY CITATION: 5 Laws P.R. Ann. §§ 1001 - 1013

RELATED REGULATIONS: Regulation 7769, Art. 21

GENERAL SUMMARY: Under the Pesticide Act's rulemaking authority, Puerto Rico's agriculture secretary has adopted administrative rules that include explicit protections for agricultural workers in the field.

SPECIFIC TERMS AND CONDITIONS

Agricultural employers must comply with the worker protection standards established by the U.S. Environmental Protection Agency, which require that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agrology and Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico 00646 (787-796-1735).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

● TENNESSEE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (WORKER PROTECTION)

STATUTORY CITATION: Tenn. Code §§ 43-8-101 - 43-8-206

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-05

GENERAL SUMMARY: Under the Insecticide, Fungicide, and Rodenticide Act's rulemaking authority, Tennessee's agriculture commissioner has adopted administrative rules that include explicit protections for agricultural workers in the field.

SPECIFIC TERMS AND CONDITIONS

EPA WORKER PROTECTION STANDARD — Agricultural employers must comply with the worker protection standard established by the U.S. Environmental Protection Agency, which requires that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

NOTICE TO FARM LABOR CONTRACTORS — The owner or operator of an agricultural establishment subject to the state rules must provide any farm labor contractor who performs work there (1) the location of the establishment's central posting site, and (2) any re-entry restrictions in effect in a pesticide-treated area if the area is within 1/4 mile of a location where workers are present and the treated area is not posted as required under the EPA standard. The labor contractor, in turn, must direct the workers under his or her control to the central posting area or provide the required pesticide application notifications to the workers directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). Among other authorities and responsibilities under the Act, representatives of the Department are permitted to inspect places where the required field worker pesticide safety training is being held, and to question trainers and attendees to determine compliance with these provisions.

Texas

AGRICULTURE CODE (WORKER PROTECTION)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 - 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code § 7.36

GENERAL SUMMARY: In addition to prescribing applicator licensing and performance standards, the Agriculture Code authorizes adoption of administrative rules for the protection of farmworkers exposed to pesticides in the field.

SPECIFIC TERMS AND CONDITIONS

Farmworkers, as well as workers mixing, loading, transferring or applying pesticides, must be trained in accordance with the worker protection standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

Qualified trainers are required to make and retain for 5 years a record of each training session they conduct, including dated and signed attendance rosters. Workers who complete a training session must receive an EPA- or state-approved training verification card identifying the trainee and documenting the trainee's attendance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

● WASHINGTON PESTICIDE APPLICATION ACT (WORKER PROTECTION)

STATUTORY CITATION: Wash. Rev. Code § 17.21.440

RELATED REGULATIONS: Wash. Admin. Code Ch. 16-233

GENERAL SUMMARY: The Washington Pesticide Application Act gives the state agriculture director broad authority to adopt specific rules governing the conditions under which pesticides may be applied, and explicitly mandates adoption of worker protections that are at least as effective as the requirements established in the U.S. Environmental Protection Agency's worker protection standard (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

SPECIFIC TERMS AND CONDITIONS: Using the mandates in the statute, the state agriculture director has adopted standards for the protection of field workers and pesticide handlers. The rules are virtually identical to the federal standard referenced above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Compliance Section, Pesticide Management Division, Washington State Department of Agriculture, Olympia, Washington 98504 (360-902-2036); toll-free 877-301-4555).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (PESTICIDE SAFETY FOR WORKERS)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts H and I

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to agricultural employers, workers and workplaces in the state. These rules include provisions relevant to pesticide safety, including the use of personal protective equipment and enforcement of pesticide-related worker protections.

SPECIFIC TERMS AND CONDITIONS

PERSONAL PROTECTIVE EQUIPMENT — Agricultural employers must ensure that field workers and other employees are protected from injury that might occur through absorption, inhalation or physical contact with pesticides and other toxic or hazardous materials. To help prevent that, employers must provide and maintain certain appropriate personal equipment such as protective clothing, respirators, shields, safety glasses and other devices that create a barrier between the source of the hazard and the worker's eyes, face, head and extremities. Employers are required to instruct the workers in the proper use of personal protective equipment.

Exception — Employers are not required to provide workers with long-sleeve shirts, long-legged pants, socks and other normal work clothing that may provide some protection against workplace hazards.

WORKER PROTECTION STANDARDS — Like the state agriculture department, the state labor and industries department has adopted and shares enforcement responsibility for state standards for the protection of field workers and pesticide handlers. The rules are virtually identical to the federal standard established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

PESTICIDE LAWS (WORKER PROTECTION)

STATUTORY CITATION: Wis. Stat. §§ 94.67 - 94.71

RELATED REGULATIONS: Wis. Admin. Code §§ ATCP 29.60 - 29.66

GENERAL SUMMARY: The administrative rules established under the state pesticide laws include provisions immediately relevant to agricultural worker safety.

SPECIFIC TERMS AND CONDITIONS

COMPLIANCE WITH FEDERAL STANDARDS — Agricultural employers in Wisconsin, as well as individuals and firms that mix, load or apply agricultural pesticides in the state, are required to comply with the worker protection standards established by the U.S. Environmental Protection Agency (see entry, U.S. — Pesticides & Agricultural Chemicals — Field Worker Safety Standards).

WARNING SIGNS — Agricultural employers are required to post worker protection warning signs at pesticide application sites, as required under the EPA regulations referenced above. The signs generally must be at least 14 inches by 16 inches in size and constructed to resist deterioration. They must go up no more than 24 hours before the pesticide application is scheduled to begin, remain posted for the duration of the restricted-entry interval specified on the product label, and be removed or covered not more than 3 days after the re-entry period expires.

EARLY ENTRY TO TREATED FIELDS — An agricultural employer may have agricultural workers enter a treated field before the restricted-entry period has expired, but only if (1) early entry is necessary to prevent or mitigate the effects of an unanticipated agricultural emergency, (2) early entry complies with the applicable EPA worker protection standards, (3) the workers entering the treated area have been trained in accordance with the EPA standards, and (4) the employer files a written report of the emergency situation with the state enforcement agency. The report must include the date and location of the early entry, a description of the emergency that necessitated early entry, the name and EPA registration number of the pesticide applied to the area, and the number of agricultural workers involved in the early entry.

AGRICULTURAL WORKER TRAINING — An agricultural employer is prohibited from requiring or allowing an agricultural worker to enter a field subject to a restricted-entry interval during the previous 30 days, unless the worker has received the worker safety training required under the EPA standards referenced above. The training must have been administered by a person certified or qualified as such by the state agency. Employers of agricultural workers must keep prescribed records of pesticide training for each worker or handler employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545). Farm operators, pesticide applicators and others who fail to comply with the requirements outlined above are subject to a criminal fine and imprisonment, as well as civil money penalties.

U.S.

→ OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (HAZARD COMMUNICATION)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1910.1200

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has adopted regulations which, among other things, require most employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job, through the use of substance labeling, safety data sheets, and employee information and training programs.

PROVISIONS APPLICABLE TO AGRICULTURE: All agricultural employers who are subject to the Act (see special note below), and who have employees who may be exposed to hazardous chemicals under normal working conditions, are obligated to establish a hazard communication program for their employees. The hazard communication program, which must be put in writing by the employer and made available to workers on request, must include the elements described in brief as follows.

HAZARDOUS CHEMICAL LIST — For each individual work area or for the farm or other establishment as a whole, employers must compile a list of the hazardous chemicals known to be present.

LABELING OF CONTAINERS — As a general rule, employers are required to ensure that each container of hazardous chemicals in the workplace (including pesticides) is properly labeled with identifying information and hazard warnings. Pesticide products that are subject to the labeling requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and the corresponding labeling regulations of the U.S. Environmental Protection Agency do not require workplace labeling or hazard warnings, but agricultural employers must see that the existing product labels remain intact and legible.

SAFETY DATA SHEETS — For each pesticide or other hazardous chemical at the workplace, employers must obtain a safety data sheet from the product's manufacturer or distributor, and keep the data sheet at a location that is readily accessible to their employees. A safety data sheet is a written document that contains prescribed information about the chemical substance to which it pertains. Among other required components, each data sheet must show (1) a product identifier, (2) the product's hazard classification, (3) the chemical and common names of each ingredient, (4) first-aid information, including routes of exposure, symptoms, and recommended treatment, (5) fire-fighting measures, (6) accidental-release measures, (7) precautions for safe handling and storage, (8) recommended exposure limits, (9) physical and chemical properties, (10) stability and reactivity, and (11) toxicological information.

EMPLOYEE INFORMATION — Covered employers are legally responsible for informing workers, at the time of their initial assignment and whenever a new hazard is introduced into their work area, of (1) the hazard communication regulatory requirements, (2) the operations in their work area where hazardous chemicals are present, and (3) the location of the hazardous chemical list and safety data sheets described above.

EMPLOYEE TRAINING — Employers must provide related training to each new employee, and to each employee affected by a new hazardous chemical at the workplace. At a minimum, training must include (1) methods that may be used to detect the presence of a hazardous chemical on the job, (2) the physical and health hazards of each hazardous substance to which the worker may be exposed, (3) measures the worker can take to protect against those hazards, and (4) an explanation of labeling, the safety data sheets, and other aspects of the employer's hazard communication program.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect workplaces, examine the written materials required to be made available by employers under these regulatory provisions, question employees, and conduct other investigative activities, either in response to a worker's complaint or on its own initiative. Whenever violations are confirmed, the agency is authorized to issue citations, propose and enforce administrative penalties, and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions covering hazard communication in agricultural workplaces have been approved and are in effect in the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

Alaska

STATE HEALTH, SAFETY AND HOUSING LAWS (HAZARD COMMUNICATION)

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 - 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1110

GENERAL SUMMARY: Under Alaska's health, safety and housing laws, the state labor department is authorized to adopt and enforce specific occupational safety and health standards conducive to safe and healthful working conditions in all workplaces. These standards must be at least as effective as the corresponding regulations adopted by the U.S. Occupational Safety and Health Administration.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state labor department has adopted standards requiring agricultural employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Except for the following additional protections, Alaska's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and are applicable to all agricultural establishments.

PHYSICAL AGENT DATA SHEETS — For each potentially hazardous "physical agent" present in a particular workplace, Alaska law requires the employer to have available a "physical agent data sheet" that, among other things, identifies the agent, describes the health hazards associated with it, outlines precautions or procedures for avoiding those hazards, and describes emergency or first aid procedures in the event of over-exposure. Among the physical agents most likely to pose a threat to agricultural workers are heat stress, cold stress and ultraviolet radiation.

ACCESS TO DATA SHEETS — Upon an employee's request, the employer must provide a copy of the physical agent data sheet for any such agent to which the worker may be exposed. Likewise, employers must post in the workplace a data sheet for each toxic or hazardous substance or physical agent to which an employee may be exposed there, or post a list of those substances or agents and identify a location where the data sheets can be accessed by employees during the work shift.

TRAINING — An employer must provide employees with information and training on the physical agents present in their work area at the time of their initial assignment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

→ ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Arizona's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

California

HAZARDOUS SUBSTANCES INFORMATION AND TRAINING ACT

STATUTORY CITATION: Cal. Lab. Code §§ 6360-6399.7

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 337-339

GENERAL SUMMARY: The Hazardous Substances Information and Training Act ensures the transmission of necessary information to employees regarding the properties and potential risks of hazardous substances in the workplace. Among other provisions, the Act requires employers (1) to make available to their employees material safety data sheets on each toxic chemical and other hazardous substance present at the place of employment, (2) to affirmatively provide material safety information, in written form or through training programs, for every employee who may be exposed to a hazardous substance on the job, and (3) to inform workers of their right to such information or training.

PROVISIONS APPLICABLE TO AGRICULTURE: With the exception of household domestic service, the Act applies to all employment in California, including agricultural labor. Farm operators and other agricultural establishments must comply with the hazardous substance information communication requirements with respect to all such substances with which their workers may come into contact at their farm or non-farm workplace.

With respect to agricultural pesticides, an employer's compliance with the state pesticide worker protection standards, outlined in the preceding entry, is deemed to be compliance with the employer's obligations under the Hazardous Substances Information and Training Act.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. California's hazard communication regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Connecticut

TOXIC SUBSTANCE INFORMATION LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-40j - 31-40p

GENERAL SUMMARY: Chapter 557, Part II of the Connecticut statutes grants employees (implicitly including agricultural workers) a right to certain information regarding toxic substances in the workplace and requires employers to disclose such information to employees on request.

SPECIFIC TERMS AND CONDITIONS: Farm operators and other employers who, in the manufacture of a product or for purposes of treatment, use certain pesticides or other toxic substances identified as air contaminants in U.S. Occupational Safety and Health Administration regulations (29 CFR 1910.1000) must comply with the following information requirements:

POSTING — Employers must post a sign, at a location readily available for viewing by employees, informing the employees of their right to information from their employer regarding the toxic substances used by the employer in the workplace. Employers must annually forward to the state labor department a list of all such toxic substances.

EMPLOYEE REQUESTS FOR INFORMATION — During the first month of employment or within a month after a transfer, any worker or the representative of any worker may submit to his or her employer a written request for, and the employer must in such cases furnish, the following information on toxic substances used by the employer: (1) the generic and chemical name of such substances, (2) the location of the substances to which employees may be exposed, (3) the properties of such substances, (4) the acute and chronic effects of exposure and the associated symptoms, (5) appropriate emergency treatment in case of exposure, (6) proper conditions for safe use of and exposure to the substances, and (7) procedures for cleanup of leaks and spills. All such information must, to the extent practicable, be provided in informal and readily understandable language.

If the employer fails to supply the requested information within 5 working days, the employer is prohibited from requiring the employee to work with the toxic substances involved until the information has been provided.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the hazard communication standard enforced by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication), since Connecticut does not have an OSHA-approved job safety and health plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). The Department must respond to any complaint of a violation of these provisions by conducting an investigation, and must report all confirmed violations to appropriate public prosecuting attorneys. In addition, upon the request of an employer, the Department must provide the employer with all the information concerning the toxic substances used by the employer at the worksite which is available to the Department at the time of the request and which is relevant to the information required to be disclosed to the workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Delaware

○ HAZARDOUS CHEMICAL INFORMATION ACT

STATUTORY CITATION: Del. Code Title 16, §§ 2401-2417

GENERAL SUMMARY: The Hazardous Chemical Information Act requires certain employers in Delaware (1) to maintain a list of all hazardous chemicals which are used or stored at the workplace and to which workers may be exposed, (2) to obtain and keep on hand a current material safety data sheet for each such hazardous substance and make data sheets available for the review of any employee requesting to do so, and (3) to provide a related education and training program at least once a year for employees using or handling hazardous chemicals.

New or newly assigned employees must be provided with training before working with or in a work area containing hazardous chemicals. The Act includes an explicit statement of workers' rights, among these the right to be advised of hazardous chemical exposure, the right of access to the employer's workplace chemical list and the respective material safety data sheets, the right to receive safety training, and the right to the Act's protections free from retaliation or discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that agricultural chemicals are regulated in Delaware under the Federal Insecticide, Fungicide, and Rodenticide Act and the state pesticide law, the Hazardous Chemical Information Act does not apply to such substances in the workplace of any agricultural employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901.

Hawaii

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (HAZARD COMMUNICATION)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 – 396-20 RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Hawaii's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to comply with the hazard communication standard. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

TOXIC SUBSTANCES DISCLOSURE TO EMPLOYEES ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 255/1 - 255/20

GENERAL SUMMARY: Under the Toxic Substances Disclosure to Employees Act, most employers in Illinois have a duty to give each employee a notice of potential exposure to toxic substances (including pesticides and other agricultural chemicals) at or near the workplace which pose known or suspected health hazards and which may cause death or serious physical harm to the worker. The Act generally applies to all employers with 5 or more full-time employees in the state, or with 20 or more full- or part-time employees anywhere and at any time throughout the year.

SPECIFIC TERMS AND CONDITIONS

MATERIAL SAFETY DATA SHEETS — For each toxic substance used, produced or stored in a place of employment to which workers may be exposed, the employer must obtain a material safety data sheet from the manufacturer or supplier. The material safety data sheet is a document which contains, among other information, (1) the chemical and common names of the substance, (2) its physical and chemical characteristics, (3) the associated physical hazards, (4) the known health effects of exposure, including signs and symptoms of exposure, (5) the known primary route of exposure, (6) the federal permissible exposure limit, if any, (7) precautions for safe handling and use, (8) recommended engineering controls, (9) recommended work practices, (10) recommended personal protective equipment, (11) emergency first-aid measures, and (12) procedures for cleaning up leaks or spills. The employer must maintain copies of the required material safety data sheets and ensure that they are accessible to employees for at least 10 years after each substance is no longer used, produced or stored at the workplace.

EMPLOYEES' RIGHT TO INFORMATION — Every employee of an employer subject to the Act has a right to receive a copy of all material safety data sheets in the employer's possession within 10 days of the worker's written request. The employer must advise the worker in writing of any hazardous substance in the workplace for which no data sheet is available, must request the missing data from the supplier within 10 days, and must mail the information to the worker within 10 days following receipt from the supplier.

POSTING AND LABELING — Employers are required to post a sign at the workplace informing employees of their rights under the Act. Moreover, employers must either affix a label to each container of a toxic substance showing its chemical name and appropriate hazard warnings, or post signs or operating instructions to convey the required information.

EMPLOYEE EDUCATION AND TRAINING — The Act requires subject employers to provide their work force with an education and training program with respect to all toxic substances to which employees are routinely exposed in the course of their work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2800).

Indiana

■ INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 - 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Indiana's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication), but except in response to an employee's complaint, the state enforcement agency is prohibited from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605). Failure to comply with the hazard communication requirements is grounds for assessment of a civil money penalty by the Department, and a person who knowingly violates the Act is also subject to criminal prosecution. Worker complaints may be filed online, at www.in.gov/dol/2733.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

→ OCCUPATIONAL SAFETY AND HEALTH LAW (HAZARD COMMUNICATION)

STATUTORY CITATION: Iowa Code §§ 88.1 – 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.10.20

GENERAL SUMMARY: Iowa's occupational safety and health law authorizes the state labor commissioner to establish and enforce specific safety and health standards in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Iowa's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to those farm establishments that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).* In carrying out its enforcement role under this law, the Division is authorized to enter any workplace in Iowa where employees are engaged, to inspect working conditions and equipment, to subpoen documentary evidence and witnesses, and to hold hearings. When an inspection discloses a violation of any standard promulgated under the authority of the state occupational safety and health statute, the Division may issue a citation, requesting correction of the violation within a specified time span. Failure to respond to a citation may, after opportunity for hearing and appeal, lead to imposition by the Division of a civil fine and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ HAZARDOUS CHEMICALS RISKS RIGHT TO KNOW ACT

STATUTORY CITATION: Iowa Code §§ 89B.1 - 89B-17

RELATED REGULATIONS: Iowa Admin. Code 875.110.1 - 875.110.7

GENERAL SUMMARY: The Hazardous Chemicals Risks Right to Know Act affirms, among other individual and community-wide protections, the right of most classes of workers in Iowa to be informed about the hazardous chemicals to which they may be exposed in the workplace, the potential health risks of such substances, and the proper techniques for handling them. Except as explicitly exempted, all employers in the state must make available to each of their employees safety data on all hazardous chemicals at the job site and provide special training to those workers assigned any special task which increases the workers' potential exposure to any such substance.

PROVISIONS APPLICABLE TO AGRICULTURE: The Hazardous Chemicals Risks Right to Know Act applies to agricultural and non-agricultural workplaces, employers and employees alike. No detailed regulations implementing the requirements for transmitting chemical hazard information to employees, however, have been adopted by the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 - 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:320

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Kentucky's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218). After inspection and confirmation of a violation, the Division may issue a citation or abatement order, enforceable in court. Failure to correct a safety and health hazard carries both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

STATE LABOR LAWS (EXPOSURE TO TOXIC SUBSTANCES)

STATUTORY CITATION: La. Rev. Stat. § 23:1016

GENERAL SUMMARY: Section 1016 of the state labor laws declares as public policy the right of workers exposed to toxic substances to obtain information concerning the nature of those substances and their adverse health effects. Current and former employees and their representatives have the right to access the employer's records of worker exposures to potentially toxic materials or harmful physical agents, and to related medical records.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies without regard to the industrial or occupational classification of the employer, employee or workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – A worker whose request for access to records under this law has been denied may file suit in civil court to enforce compliance, using a private attorney or public legal service provider. If the court rules in the complainant's favor, the worker is entitled to recover reasonable attorney's fees and court costs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-401 - 5-410

GENERAL SUMMARY: With few exceptions, the Maryland Occupational Safety and Health Act requires employers to comply with the federal hazard communication regulations adopted by the U.S. Department of Labor (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication). In brief, those regulations require employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job, through the use of product labeling, safety data sheets, and employee information and training programs.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to comply with the federal hazard communication standard **does not apply** to farm employers who utilize hazardous chemicals in their farm operation, provided they comply with applicable requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Massachusetts

PUBLIC HEALTH LAWS (HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111F, §§ 1 - 21

GENERAL SUMMARY: The Massachusetts public health laws include provisions requiring the disclosure of information by employers regarding toxic or hazardous substances at the workplace. These provisions apply to virtually all public and private employers, agricultural and non-agricultural.

SPECIFIC TERMS AND CONDITIONS

MATERIAL SAFETY DATA — Generally every employer who uses or stores at the workplace any substance on the official state listing of toxic and hazardous substances must obtain a material safety data sheet on the product from the supplier or manufacturer and make the data sheet available to employees at a central location at the workplace. The material safety data sheet is a prescribed document containing such information as (1) the chemical and common names of the substance, (2) the hazards or other risks associated with its use, (3) the proper precautions, handling practices and necessary protective equipment to be used, (4) appropriate emergency procedures, and (5) a description of the potential health risks posed by the substance.

WORKERS' RIGHT TO INFORMATION — Any worker in Massachusetts (or the worker's designated representative) may request in writing, and has a right to examine and obtain from the employer, a material safety data sheet for each toxic or hazardous substance to which the worker is, has been, or may be exposed on the job. The employer generally must provide data sheets within 4 working days of a request.

POSTING — Every farm operator who uses or stores toxic or hazardous substances in the workplace must post a notice in a central location, informing workers of their rights under these provisions.

INSTRUCTION — Within the first month of employment and annually thereafter, employers must furnish their employees with instruction on the nature and effects of the hazardous substances present in the workplace. Instruction may be provided in written form or through training programs, but in either case must be presented in non-technical language. Employers are required to cover such topics as the identity of each toxic substance involved, its location at the workplace, appropriate first-aid treatment and antidotes in the event of overexposure, proper handling practices, the health effects of the substance, and the rights and duties of workers under the disclosure law.

SPECIAL NOTES OR ADVISORIES

RESPONSIBILITY OF CREW LEADERS AND LABOR CONTRACTORS — Farmworkers employed by or through an independent farm labor contractor, insofar as such workers are exposed in the course of their employment to a toxic or hazardous substance in a workplace not owned or operated by the contractor, have the right to examine or obtain the material safety data sheet for that substance from the farm owner or operator, through a written request to the contractor.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A complaint charging such discrimination may be filed with the Department of Labor Standards within 180 days after the occurrence of the violation, or within 180 days after learning of such violation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6975). The Department is responsible for enforcing those sections of the hazardous substance disclosure law which define the rights and duties of workers and employers. Any worker whose rights under the law have been violated may file a complaint, within 120 days of the violation. The Department must investigate the charges and formally issue a finding. In the event of failure to resolve a confirmed violation informally, the Department may order appropriate remedial action, enforceable in the state courts. Willful and intentional violations are punishable by fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Right To Know Program, Massachusetts Department of Public Health, Boston, Massachusetts 02108. This agency is responsible for maintaining the Massachusetts hazardous substance list and disseminating information pertaining to the materials on the list.

Michigan

→ MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.19201 - 408.19204

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Michigan's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). In response to a complaint or on its own initiative, MIOSHA representatives may enter any public or private property in the state to enforce the hazard communication standard. Employers found to have violated any aspect of the standard will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Minn. Stat. §§ 182.65 - 182.676

RELATED REGULATIONS: Minn. Admin. R. 5206.1300 - 5206.1900

GENERAL SUMMARY: Under explicit authority granted by the state Occupational Safety and Health Act, the labor commissioner has adopted rules requiring most Minnesota employers who have one or more employees to furnish information to their employees about the hazardous chemicals to which they are exposed on the job. Employers must also provide special safety-related training prior to the initial assignment of a worker to a job site where the employee may be routinely exposed to a hazardous substance or harmful physical agent.

PROVISIONS APPLICABLE TO AGRICULTURE

TRAINING — Every farm operator or other agricultural establishment that (1) employs more than 10 workers, or (2) maintains a temporary labor camp and employs any of its residents, must provide the workers with a state-prescribed training program concerning the hazardous substances and harmful physical agents to which the workers are routinely exposed on the job. Normally, training must be provided before workers are first assigned to a job site where they may be routinely exposed to a hazardous substance or harmful physical agent, and at least once a year thereafter. The employer must keep a record of the training provided for each employee.

Training under most circumstances must be presented to the workers orally, in a language understood by each participant. The content of the training program depends on the nature and extent of exposure, but oral training generally must cover such topics as the identity of the substances or agents involved, the known symptoms and effects of exposure, appropriate emergency treatment, and proper conditions for safe use and exposure. Any worker who is exposed to hazards on the job, but who is not a handler of hazardous substances and is employed for not more than 5 days, is entitled at least to comparable written information, in a language understood by the worker.

ACCESS TO INFORMATION — A farmworker who is employed (1) in a farming operation that employs more than 10 employees, or (2) by a farm operator who maintains a temporary labor camp, is entitled to access to detailed written information on the hazardous substances and harmful physical agents encountered at the place of employment, comparable to the information required to be covered in the training program described above. All other agricultural workers, and any agricultural employee association or union representing them, have the right to receive from their employer, upon request and within a reasonable period of time, the labeling information from the container of any substance or chemical (including a pesticide product) to which they are routinely exposed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742). The Department is authorized to visit any place of employment in the state, to interview workers and employers, to inspect labeling and other forms of hazardous substance warning, and observe training, with an aim toward enforcing compliance with the Act's hazardous substance provisions. Failure by an employer to provide required training, or an employer's denial of access to safety information regarding hazardous substances or harmful physical agents, should be reported to the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

EMPLOYEE AND COMMUNITY HAZARDOUS CHEMICAL INFORMATION ACT

STATUTORY CITATION: Mont. Code §§ 50-78-101 - 50-78-402

GENERAL SUMMARY: The Employee and Community Hazardous Chemical Information Act affirms the right of most workers in Montana to be informed by their employer of their actual or potential exposure to hazardous chemicals on the job. Employers subject to the Act must compile, maintain, and allow workers access to a workplace chemical list showing the common and chemical names of any hazardous substance present in the workplace and identifying the work area in which the substance is normally stored or used. Likewise, the employer must obtain a material safety data sheet for each such hazardous chemical and make the information available to any employee who wishes to review or copy it.

Each employee potentially exposed to hazardous substances must receive training from the employer on the hazards of workplace chemicals and on protective measures for handling those substances, and the employer must provide appropriate protective equipment for each employee required to work with a hazardous chemical. Subject employers are also obligated to post notices informing their employees of their rights under the Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act **does not apply** to any chemical subject to the packaging and labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, which includes most agricultural pesticides, defoliants and other plant regulators.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - This law is enforced by local health officers and county attorneys. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

■ NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Nev. Rev. Stat. § 618.380

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: Apart from generally obliging employers in the state to establish and maintain a safe workplace, the Nevada Occupational Safety and Health Act requires most employers to notify any worker who has been exposed to toxic materials or harmful physical agents on the job, in concentrations or at levels which exceed those prescribed by an applicable state occupational safety and health standard, and to inform the worker of any action being taken to correct the condition.

PROVISIONS APPLICABLE TO AGRICULTURE: With authority under the state occupational safety and health law, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020). A covered worker who believes that he or she is being or has been exposed to a toxic material in the workplace, and who has been denied notification or related information by the employer involved, should contact NVOSHA.

New Hampshire

WORKER'S RIGHT TO KNOW ACT

STATUTORY CITATION: N.H. Rev. Stat. §§ 277-A:1 - 277-A:10

GENERAL SUMMARY: The Worker's Right to Know Act requires most New Hampshire employers to provide their employees with information concerning the nature of the toxic substances to which they may be exposed on the job and to take other steps to protect their employees from the risks associated with such substances. The Act applies to virtually all employees and workplaces in the state, other than domestic or casual laborers at the employer's place of residence.

SPECIFIC TERMS AND CONDITIONS: Every employer whose workers handle, use or are otherwise exposed during the course of their employment to any toxic substance (potentially including pesticides and other agricultural chemicals) must, among other obligations imposed by the Act, comply with these duties:

- (1) Obtain, and make available for examination and copying by employees, a safety data sheet for each toxic substance or toxic mixture to which a worker may be exposed on the job. The safety data sheet is a document containing prescribed information such as the name of the substance, its hazards and health effects, the potential routes and symptoms of overexposure, the precautions to be followed in its use, and emergency and first-aid procedures.
- (2) Post a conspicuous written warning at the worksite identifying each toxic substance to which the workers may be exposed, the hazards involved, symptoms of exposure and overexposure, the proper conditions for safe use and exposure, cleanup procedures, and emergency measures.
- (3) Post a notice informing employees of the availability of a safety data sheet on each such substance in the workplace, and supply a copy of the data sheet to any worker within 72 hours of the worker's request. If the information is not received within 5 working days, the employee may refuse to work with or around the material until such time as the employer complies with the request.
- (4) Conduct an education and training program during the first month of employment for all workers routinely exposed to toxic substances. The program must inform workers of the nature of the substances to which they will be exposed, prescribe appropriate handling procedures, and advise them of the potential risks involved.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced any form of retaliation by an employer in connection with the Right to Know Act may file a complaint at any time within 30 days after learning of the violation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). If the Department receives a complaint against a particular employer or has other cause to believe that the Worker's Right to Know Act is being violated, Department personnel may enter and inspect the premises of the employer's place of business and take samples of any unknown substance in order to check compliance. Anyone who fails to abide by the Act is subject to a penalty of up to \$2,500 for each violation, enforceable by the Department in a civil action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

○ WORKER AND COMMUNITY RIGHT TO KNOW ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:5A-1 - 34:5A-44

GENERAL SUMMARY: The Worker and Community Right to Know Act requires, among other things, that the state health department develop and maintain a list of workplace hazardous substances and conduct a biennial survey of all employers subject to the Act to determine where each such hazardous substance is or may be encountered on the job. Subject employers must retain a copy of the workplace survey and post a notice in English (and in Spanish, if the native language of any employee is Spanish) advising workers of the availability of that information.

Employers are also required to provide new employees with an education and training program within the first month of employment, designed to inform them of the nature of the hazardous substances to which they are exposed in the course of their work, the potential health risks such substances pose, and procedures for handling hazardous substances safely under all circumstances.

The Act further mandates the use of prescribed labeling of containers holding hazardous substances, to enable workers to identify and guard against on-the-job chemical accidents. Finally, the Act guarantees employees the right to receive from the employer a copy of the workplace survey and the hazardous substance fact sheets for the facility where they work.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker and Community Right to Know Act **does not apply** to establishments engaged in agricultural production, agricultural services (other than lawn and garden services), or to any other industrial sector not explicitly mentioned in the Act's coverage provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Right to Know Unit, Consumer, Environmental and Occupational Health Service Division, New Jersey Department of Health, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Bureau of Local Environmental Management and Right to Know, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625.

New Mexico

OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.9

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. New Mexico's hazard communication regulations are nearly identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742). Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of the hazard communication standard.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

LABOR LAW (TOXIC SUBSTANCES)

STATUTORY CITATION: N.Y. Labor Law §§ 875 - 883

GENERAL SUMMARY: Article 28 of the state labor statutes requires employers to provide certain notifications to their employees regarding toxic substances in the workplace, to establish an education and training program for employees routinely exposed to such substances, and to observe related recordkeeping duties. These provisions apply to all places of employment and protects all classes of employees in New York except domestic workers and casual laborers.

SPECIFIC TERMS AND CONDITIONS

NOTICE REQUIREMENTS — Every subject employer must post a sign at every workplace where employee notices are normally posted, to inform workers of their right to receive information from their employer regarding the toxic substances found on the job, a description of their toxic effects, and the circumstances under which those effects are produced.

EMPLOYEES' RIGHTS — Workers or their representatives may request, and have a right to receive from the employer, the following information relating to toxic substances to which they may be exposed at the place of employment:

- (1) The generic, chemical, trade and common names of each such substance.
- (2) The location of each substance at the workplace.
- (3) Its properties and the acute and chronic effects of exposure.
- (4) The symptoms of exposure at hazardous levels.
- (5) The potential for flammability, explosion or reactivity.
- (6) Appropriate emergency treatment.
- (7) Proper conditions for safe use and exposure.
- (8) Cleanup procedures for leaks and spills.

Employers must furnish the desired information no later than 72 hours after receipt of a written request. If the information is not forthcoming within this timeframe, the worker or workers affected may not be compelled to work with any substance on which information was requested.

EDUCATION AND TRAINING — Every employer is obligated to provide each employee with an education and training program prior to initial assignment to a task that may involve exposure to a toxic substance, and to repeat the program annually thereafter. Education and training must cover the same subject matter itemized above in the discussion of employees' rights.

RECORDKEEPING — Employers must keep a record of the name, address, and Social Security number of every worker who handles or uses any material on the U.S. Occupational Safety and Health Administration's list of toxic and hazardous substances (29 CFR Part 1910, Subpart Z).

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after a suspected act of retaliation, a worker may file a complaint with the Department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

→ HAZARDOUS CHEMICALS RIGHT TO KNOW ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-173 - 95-218

GENERAL SUMMARY: In part and with some exceptions, the Hazardous Chemicals Right to Know Act requires employers who use or store hazardous chemicals in North Carolina to compile a list of each such substance on their property, to maintain a material safety data sheet for each hazardous chemical purchased, to provide the list and a data sheet for any substance on the list to anyone (including an employee) who requests such information, and to forward certain emergency information to local fire officials.

PROVISIONS APPLICABLE TO AGRICULTURE

FULL COVERAGE — Farm operations that employ more than 10 full-time employees are fully subject to the Act, key provisions of which are summarized as follows.

Hazardous Substance List — Employers must compile and keep current a list of each hazardous chemical normally used or stored at their farm or workplace in an amount exceeding 55 gallons or 500 pounds, whichever is greater. For each such substance, the list must include the name of the chemical, the quantity usually stored at the site, the location at the site where the material is normally stored, and the extent to which it is exposed to altered temperatures or pressure.

Material Safety Data Sheets — For each hazardous chemical purchased, employers must obtain from the manufacturer or distributor a current material safety data sheet, a document containing certain identifying information, health hazard and safety disclosures, handling precautions, and other prescribed data.

Right To Know — Any worker or any other person in the state is entitled to receive an employer's hazardous substance list, and a material safety data sheet for any substance on the list, by submitting a written request to the employer. The requested materials must be provided, at a fee not to exceed the cost of copying, within 10 days of receipt of the request by the employer.

Emergency Information — An employer who normally stores hazardous chemicals in the quantities cited above is required to furnish the fire chief having jurisdiction over the employer's farm or workplace with the name and telephone number of a knowledgeable representative of the employer who can be contacted in case of emergency or for further information.

PARTIAL COVERAGE — A farm operation that employs 10 or fewer full-time workers but which normally stores at least 55 gallons or 500 pounds of a hazardous chemical, whichever is greater, must comply only with the emergency information provision summarized in the preceding paragraph. Such employers are not subject to any other requirement of the Act.

SPECIAL NOTES OR ADVISORIES

WORKER TRAINING — Under North Carolina's OSHA-approved occupational safety and health program, farmworkers employed by an agricultural operation which employs more than 10 workers, or which operates a temporary labor camp, must also receive training by the employer regarding the hazardous substances found in the workplace.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).

Oregon

OREGON SAFE EMPLOYMENT ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-9800

GENERAL SUMMARY: The Oregon Safe Employment Act includes language authorizing the state consumer and business services department to adopt standards requiring agricultural employers to provide information to their workers about the hazardous chemicals to which they may reasonably be expected to be exposed in the workplace.

SPECIFIC TERMS AND CONDITIONS: Under the broad rulemaking authority noted above, the consumer and business services department has adopted a hazard communication standard explicitly applicable to agricultural employers when a hazardous chemical is known to be present in the workplace in such a way as to expose workers under normal conditions of use or in a foreseeable emergency.

HAZARD COMMUNICATION PROGRAM — Farm employers must develop and implement a written hazard communication program specific to their workplace. It must include, among other elements, (1) a list of all the hazardous chemicals in the workplace, and (2) a description of the methods for informing their workers about the hazards of non-routine tasks.

PRODUCT LABELS — Employers must ensure that the product label that shipped with each hazardous chemical in the workplace is legible and displayed on the container in the work area. Pesticide application equipment such as spray tanks and backpack-type sprayers do not have to be labeled, as long as the pesticide handler still has access to the product label.

SAFETY DATA SHEETS — The employer must have a safety data sheet for each hazardous chemical used or present in the workplace, and to which workers may be exposed during normal work conditions or in an emergency — this includes residual pesticides encountered by workers doing hand labor operations in the field. All such data sheets must be readily accessible to workers on all shifts.

EMPLOYEE INFORMATION AND TRAINING — At the time of their initial assignment, or whenever a new hazard is introduced into their work area, the employer must provide training for the workers who are or may be exposed to a hazardous chemical. Training must include, among other information, (1) methods of detecting the presence or release of a hazardous chemical in the work area, (2) the physical and health hazards of the chemicals in the work area, and (3) the measures workers can take to protect themselves from the hazards involved, including appropriate work practices and personal protective equipment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Non-compliance with the hazard communication standards may result in assessment of a civil money penalty by the Department and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). This agency is responsible for enforcing the anti-retaliation provision noted above.

Pennsylvania

WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

STATUTORY CITATION: 35 Pa. Stat. §§ 7301 - 7320

GENERAL SUMMARY: Apart from protective provisions applicable to the public at large, the Worker and Community Right-to-Know Act grants employees the right to receive certain information from their employers regarding chemicals used in the workplace and health hazards posed by the use of or exposure to hazardous substances on the job. The Act further requires employers to conduct educational programs for those employees who may be exposed to such substances in their normal work area. These provisions generally apply to all workers in Pennsylvania except domestic and casual laborers employed at the employer's residence.

SPECIFIC TERMS AND CONDITIONS

POSTING — Every employer must post, at a location to which workers normally have free access during the course of a normal day's work, (1) a list of all hazardous substances found in the workplace, and (2) a notification advising the workers of their entitlement to written information on such substances and their other rights under the Act.

AVAILABILITY OF INFORMATION — Within 5 days of receipt of a written request for such information from a worker or a worker's representative, an employer must furnish a material safety data sheet or hazardous substance fact sheet for any hazardous substance or hazardous mixture present in any of the employer's workplaces. If the requested information is in the employer's possession and the employer fails to respond to the request within the prescribed timeframe, the worker has the right to refuse to work with the hazardous substance involved, without penalty, until the information is provided.

DESCRIPTION OF INFORMATION — A material safety data sheet is a document prepared by the manufacturer or supplier which contains such information as (1) the chemical, trade and common names of the product, (2) its chemical and physical properties, (3) the health and safety hazards posed by the substance, (4) the permissible exposure levels and signs of overexposure, (5) the potential routes of exposure, (6) emergency first-aid procedures, and (7) the personal protective equipment to be worn and other precautions to be followed. A hazardous substance fact sheet, on the other hand, is a document prepared by the state enforcement agency to transmit information about a hazardous substance to employers, employees or members of the general public.

EDUCATIONAL PROGRAM — At least once a year, employers must provide an education and training program for employees exposed to hazardous substances or hazardous mixtures in their normal work area. The program may be in written or oral form, but in either case must cover such topics as the location of each hazardous material in the workplace, its properties, its chemical and common names, its acute and chronic effects, the symptoms of overexposure, appropriate personal protective equipment, conditions for safe use, appropriate emergency treatment, and emergency procedures for dealing with spills and other accidents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Health and Safety Division, Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-772-1635).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 – 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. The hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) but may be enforced against all agricultural workplaces in Puerto Rico.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172). Discovery of a violation of the hazard communication standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

HAZARDOUS SUBSTANCES RIGHT-TO-KNOW ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-21-1 - 28-21-21

GENERAL SUMMARY: The Hazardous Substances Right-to-Know Act requires employers to make available to their employees certain information about the toxic and hazardous substances to which they may be exposed on the job, and to provide employees with an annual training and education program regarding the risks involved and appropriate safety measures. The Act applies to virtually all public and private employment in the state, including employment in the agricultural sector.

SPECIFIC TERMS AND CONDITIONS

EMPLOYER DUTIES -

Chemical Identification List — Every employer whose employees are exposed on the job to any toxic or hazardous substance must maintain and make available at the workplace a complete list of all such substances and make the list accessible to the workers during all hours of operation. The list must include the common and trade names of each material, cross-referenced to its chemical name.

Material Safety Data Sheets — For each item on the chemical identification list, the employer is responsible for obtaining from the manufacturer, supplier or distributor a material safety data sheet, which contains such information as the substance's chemical and common names, its physical and chemical characteristics, its physical hazards, its health hazards, the primary exposure routes, permissible exposure limits, precautions for safe handling and use, control measures, and emergency first-aid procedures.

EMPLOYEE RIGHTS — Within 3 working days (excluding weekends and holidays) after a worker's request to examine or copy the chemical identification list, or the material safety data sheet for any substance on the list, the employer must make such information available to the worker. If the requested information has not been received within the prescribed 3-day timeframe, the worker may then refuse to work with or be exposed to the substance, free from disciplinary action or discrimination.

TRAINING AND EDUCATION — Prior to an employee's initial assignment and annually thereafter, the employer is required to provide a program of training and education to advise the worker about all toxic or hazardous materials to which the worker may be exposed in the course of employment. Training must be based on information contained in the relevant material safety data sheets and on other available intelligence, and must address both the nature of the hazards involved and appropriate work practices, protective measures and emergency procedures.

EMPLOYMENT THROUGH CONTRACTORS — Whenever workers are exposed to toxic or hazardous substances while employed under a contract arrangement at a workplace not owned or operated by the contractor (implicitly including seasonal farmworkers performing services on a farm through a farm labor contractor), it is the contractor's responsibility to respond to worker requests for information and to provide the required training and education. However, before work commences, the employer on whose premises services will be performed must provide the contractor with the applicable chemical identification list and corresponding material safety data sheets.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to retaliation may take civil action against the violator at any time within 180 days after the act occurs, or within 90 days after first becoming aware of the violation. The worker may elect instead to notify the Department, which has authority in such cases to order the violator to reimburse the worker for any monetary losses, plus interest, stemming from the retaliatory act and to take other appropriate corrective action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Right-to-Know Unit, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8570). A worker who has been denied a request for information or has been deprived of training in violation of the Right-to-Know Act may file a complaint with the Department, which must attempt to effect compliance by the employer. In addition to other liability, an employer who willfully violates the requirements of the Act is subject to an administrative fine of up to \$5,000 for every day the violation continues.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

OCCUPATIONAL HEALTH AND SAFETY LAW (HAZARD COMMUNICATION)

STATUTORY CITATION: S.C. Code §§ 41-15-80 - 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 6

GENERAL SUMMARY: The occupational health and safety law authorizes the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor director has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. South Carolina's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682). Representatives of South Carolina OSHA may enter any workplace at any reasonable time to inspect working conditions, examine records, question the employer and employees, and take other steps necessary to check and enforce compliance with the hazard communication requirements.

Tennessee

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

STATUTORY CITATION: Tenn. Code § 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-09

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act requires employers in the state to comply with the hazard communication standard established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication).

PROVISIONS APPLICABLE TO AGRICULTURE: While the state Occupational Safety and Health Act covers virtually all employers and employees in the state, the state hazard communication regulations explicitly exclude any agricultural workplace with respect to which the state agriculture commissioner certifies that the chemicals present there are covered by other federal or state laws or regulations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 32720 (615-837-5148). This agency is responsible for making the certification required to relieve an agricultural employer from compliance with the hazard communication standard adopted under the state Occupational Safety and Health Act.

Texas

O HAZARD COMMUNICATION ACT

STATUTORY CITATION: Tex. Health & Safety Code §§ 502.001 - 502.020

GENERAL SUMMARY: The Hazard Communication Act requires state and local governmental employers to compile and maintain a listing of the hazardous chemicals used or stored in the workplace in certain specified minimum quantities, and to obtain from the manufacturer or distributor a safety data sheet for all hazardous chemicals stored in the workplace regardless of quantity. The Act further provides that employees who may be exposed to hazardous chemicals on the job have a right to be informed of their exposure and to receive from the employer, on request, the employer's workplace chemical list and material safety data sheets.

In addition to these and other duties under the Act, subject employers must administer an education and training program for new or newly assigned employees using or handling hazardous chemicals, to acquaint them with the risks involved and appropriate preventive measures. Employers must also provide workers with appropriate personal protective equipment, and must post a notice informing employees of their rights under the Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The Hazard Communication Act does not apply to employment in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Texas Hazard Communication Program, Division for Regulatory Services, Texas Department of State Health Services, Austin, Texas 78714.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ AGRICULTURAL HAZARD COMMUNICATION ACT

STATUTORY CITATION: Tex. Agric. Code §§ 125.001 - 125.017

RELATED REGULATIONS: 4 Tex. Admin. Code §§ 8.1 - 8.12

GENERAL SUMMARY: The Agricultural Hazard Communication Act obligates certain agricultural employers to furnish their workers with information concerning the hazardous chemicals to which they may be exposed on the job, and establishes the right of workers who are at risk of such exposure to receive information, training and protective clothing to help reduce the potential for injury.

SPECIFIC TERMS AND CONDITIONS

EMPLOYER DUTIES — In general, every farm operator or other agricultural employer who (1) annually uses or stores more than 55 gallons or 500 pounds of chemicals subject to the labeling provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, or fertilizers containing chemicals defined as hazardous under the federal hazard communication standard, and (2) pays gross annual wages of \$15,000 or more for migrant or seasonal agricultural labor, or \$50,000 or more for non-migrant, non-seasonal farm labor, must comply with the following information requirements, among others:

Workplace Chemical List — The employer must compile and maintain a listing of all agricultural chemicals of the nature and quantity described above which are used or stored at the workplace. The workplace chemical list must include the name of each substance, the date and crop on which the chemical was applied or used, the work area in which the chemical is actually stored or used, and related information. The chemical list must be updated as needed, but not less frequently than once a year, and must be readily available to agricultural workers, their representatives, and treating medical personnel who need or desire to examine it; employee representatives and medical personnel need not identify the worker being represented or treated.

Material Safety Data Sheets — The employer is responsible for obtaining from the manufacturer or distributor a material safety data sheet for each substance on the workplace chemical list. The safety data sheet is a prescribed document containing chemical hazard and safe-handling information, or a product label with comparable precautionary statements. Material safety data sheets must be attached to the employer's chemical list.

Crop Sheets — To any worker who has not participated in a state-administered training program (described below) or who requests such information, the employer must furnish a crop sheet pertaining to the crops the worker will be working with. Crop sheets, prepared and disseminated in English and Spanish by the state agriculture department, contain such information as the kinds of chemicals typically used on the particular commodity, the chemical application schedule normally followed for that crop, advisories regarding special clothing and other safety measures required or recommended for work around the crop, relevant emergency information, and a summary of the worker's entitlement to material safety data sheets, training, and other rights under the Act. In addition to providing the worker with written copies, the employer must see that the crop sheets relevant to the operations the worker is to perform are read to the worker at least once each work season.

AGRICULTURAL WORKER RIGHTS —

Information — Agricultural workers who are employed by a farm operator or other employer subject to the Act, and who may be exposed to the chemicals regulated by the Act, have a right to be informed of such exposure and a right to access to the employer's workplace chemical list and a copy of any material safety data sheet requested.

Training — Farmworkers are entitled to training regarding the hazards of the chemicals to which they may be exposed and appropriate preventive measures. The training program offered by the state agriculture department and county extension service offices must include information on interpreting labels and material safety data sheets, the proper handling and storage of hazardous chemicals, their acute and chronic effects, protective clothing and equipment, first-aid treatment, and general safety instructions.

Protective Clothing and Equipment — Employers subject to the Act must provide any protective clothing or device recommended by an applicable material safety data sheet, crop sheet or state regulation. Such clothing or equipment is in addition to the standard long-sleeve shirt, long pants, boots or shoes, and socks normally provided by the worker.

LABELS — Existing labels on agricultural chemical containers received at the farm may not be removed or defaced. It is unlawful to require a farmworker to work with a regulated chemical in an unlabeled container, other than a portable vessel intended for the immediate use of the worker who applies the product.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, an employer may not ask or require a worker to waive any rights under this law or the regulations, as a condition of employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Right to Know Program, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832). Among other functions under the Agricultural Hazard Communication Act, the Department is responsible for enforcing the obligation of farm employers to inform and train their employees regarding hazardous agricultural chemicals, and for enforcing the right of farmworkers to information, training and protective gear.

Within 90 days of receipt of a complaint from a worker who has been denied his or her rights under the Act, or a complaint by a representative of such a worker, the Department must complete an investigation and may bring legal action against any party found in violation of the Act within 60 days after the date the investigation is completed. After providing notice and opportunity for hearing, the Department may issue an enforcement order requiring compliance. Failure to respond to an order may lead to assessment of an administrative fine by the Department. Intentional disclosure of false information or negligent failure to disclose a hazard can subject an employer to a civil penalty of up to \$5,000, and if such a violation leads to an injury, the employer is liable to a criminal fine of up to \$25,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

■ UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Utah Code §§ 34A-6-101 - 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-1

GENERAL SUMMARY: The Utah Occupational Safety and Health Act authorizes the state enforcement agency to establish specific safety and health regulations for any trade or industry.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Utah's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901). If an inspection or investigation reveals evidence of a violation of the Act or the associated regulations, UOSH may issue the employer a citation, describing the infraction and fixing a reasonable time for corrective action; the citation may be followed by assessment of a civil money penalty. Failure to correct a violation may result in a final order for abatement and a penalty against the employer. The Act also prescribes criminal penalties for certain willful and knowing violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

OCCUPATIONAL SAFETY AND HEALTH LAWS (HAZARD COMMUNICATION)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Vermont's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084). If inspection or investigation yields evidence of a violation of the hazard communication requirements, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The law also prescribes criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

OCCUPATIONAL SAFETY AND HEALTH LAWS (HAZARD COMMUNICATION)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 – 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Virginia's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776). If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WORKER AND COMMUNITY RIGHT TO KNOW ACT

STATUTORY CITATION: Wash. Rev. Code §§ 49.70.010 - 49.70.900

GENERAL SUMMARY: The Worker and Community Right to Know Act grants virtually all employees in Washington the right to request from their employers certain information regarding hazardous substances in the workplace, and requires employers to provide workers engaged in agricultural production with information and training on the hazardous chemicals in their workplace.

SPECIFIC TERMS AND CONDITIONS

EMPLOYEE'S RIGHTS — An employee or employee representative may make a written request to the employer for a copy of the employer's workplace survey of hazardous substances, or a copy of a material safety data sheet on each such substance to which the worker may be exposed in the work area. The employer must provide the requested information within 3 working days of the request, or the employee may refuse to work with the substance or substances in question without loss of pay or any other employment privilege until the request is honored.

INFORMATION AND TRAINING ON AGRICULTURAL CHEMICALS — Farm operators and other agricultural employers are required to maintain the material safety data sheets received with incoming shipments of hazardous chemicals, and assure that the information is accessible to their agricultural employees on request. Labels on incoming containers of hazardous agricultural chemicals may not be removed or defaced. In general, all employees engaged in agricultural production of crops or livestock must be provided with training on the hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced to the workplace, instruction must address the hazards to which the employees will be exposed.

RECORDKEEPING — An employer who applies pesticides to an agricultural crop, or who contracts to have pesticides applied to a crop, must keep a record of each such application. Among other information, the record must include (1) the date and time of the pesticide application, (2) the location of the land where the pesticide was applied, (3) the name and EPA registration number of the pesticide product used, (4) the crop or site to which the product was applied, (5) the amount and concentration used, (6) the name and address of the person or persons performing the application, and (7) the wind speed and direction at the time the application took place.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the Department may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). The enforcement and administrative procedures spelled out in the Washington Industrial Safety and Health Act apply explicitly to the Right to Know Act. Any worker who is denied access to information or training to which he or she is entitled under the Right to Know Act may file a complaint with the Department. If investigation of the complaint reveals a violation, the Department may issue a citation, informing the employer of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may bring suit in superior court against an employer who fails or refuses to comply with the Right to Know Act. A judgment in the worker's favor may include an award of the costs of litigation, including the reasonable expenses for legal counsel and expert witnesses.

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 - 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-901

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers in the state, including rules requiring them to identify the hazardous chemicals in the workplace and to train their employees about those materials.

SPECIFIC TERMS AND CONDITIONS

HAZARDOUS CHEMICAL LIST — Farm operators and other agricultural employers must compile a list of hazardous chemicals known to be present in the workplace and to which workers there may be exposed under normal conditions of use or in an emergency situation. For each item on the list, the employer must obtain from the manufacturer a safety data sheet that includes prescribed information about its hazards and related protective measures.

Both the hazardous chemical list and safety data sheets must be kept up to date and made accessible to employees.

INFORMATION AND TRAINING — At the time of their initial job assignment and any time a new chemical hazard is introduced into their work area, the employer must:

- (1) Inform the workers of (a) the requirements of these rules, (b) any operations in their work area where hazardous chemicals may be present, and (c) the location of the chemical list and safety data sheets described above.
- (2) Provide the workers with effective training about hazardous chemicals in their work area, to include (a) methods for detecting the presence or release of hazardous chemicals, (b) the likely symptoms of over-exposure, and (c) the steps workers can take to protect themselves from the associated hazards.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233). In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

EMPLOYEE SAFETY AND WELFARE LAWS (HAZARDOUS CHEMICAL SUBSTANCES)

STATUTORY CITATION: W. Va. Code § 21-3-18

GENERAL SUMMARY: In most industries in the state, every employer of 10 or more employees who uses or produces any hazardous chemical substance appearing on the state's official listing of such materials must post in the work area where the substance is used a notice identifying the material, advising the workers that it is used at the worksite, and describing the symptoms of overexposure. An employer who has knowledge of any incident of exposure involving a listed hazardous chemical substance or material in excess of its published safe exposure level must report the incident to the state within 10 days thereof and provide a copy of the report to the employee or employees affected.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions do not apply to agricultural or horticultural activity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Wisconsin

O EMPLOYEES' RIGHT TO KNOW LAW

STATUTORY CITATION: Wis. Stat. §§ 101.58 - 101.599

GENERAL SUMMARY: The Employees' Right to Know Law (1) requires most employers in Wisconsin to provide their employees with certain notifications and printed information regarding toxic substances, infectious agents, and pesticides in the workplace, (2) grants an employee the right to refuse to work with or around any such material unless the employer supplies related information requested by the worker, and (3) requires employers to provide an education or training program to employees prior to initial assignment to a job site when they may be routinely exposed to hazardous materials.

PROVISIONS APPLICABLE TO AGRICULTURE: State law explicitly prohibits the safety department from regulating workplace safety and health in agricultural and non-agricultural workplaces where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan. Since OSHA has adopted a right-to-know standard and Wisconsin does not have an OSHA-approved state plan, the Employees' Right to Know Law is **not** enforced in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 - 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Ch. 2

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state OSHA Commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Wyoming's hazard communication regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication) and may be enforced against any agricultural employer in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786). Representatives of the Department are authorized to enter and inspect any place in the state where individuals are employed, to investigate working conditions and ascertain compliance with the Occupational Health and Safety Act.

U.S.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (ANHYDROUS AMMONIA)

STATUTORY CITATION: 29 USC §§ 651 – 678 RELATED REGULATIONS: 29 CFR § 1910.111

GENERAL SUMMARY: Under authority of the Occupational Safety and Health Act, the U.S. Department of Labor has developed and implemented standards for the storage and handling of anhydrous ammonia, which is a hazardous and commonly used agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: Agricultural employers subject to the Act (see special note below) must comply with the requirements outlined below and take steps to assure that employees immediately involved in the use of ammonia and related equipment observe precautions to protect their own safety and the safety of co-workers.

CONSTRUCTION OF AMMONIA CONTAINERS — All containers used for the transportation, storage or application of anhydrous ammonia, as well as the fittings, valves and other appurtenances connected to such containers, must be built in accordance with detailed specifications prescribed in the regulations, and containers and valves must be properly marked with certain identifying information.

ON-FARM EQUIPMENT — The regulations require that farm vehicles used to transport ammonia in containers of 1,200-gallon capacity or less be equipped with at least 5 gallons of clean water for use in case of accidental contamination of a worker. Ammonia tanks must be safely mounted on the vehicle or trailer, and trailers must be securely attached to the vehicle drawing them. Similarly, containers of 250-gallon capacity or less that are mounted on farm equipment and used for the application of ammonia in the field must be securely attached and fitted with a level gauge and certain prescribed valves. All ammonia tanks must be marked with the words "Caution — Ammonia," in letters at least 4 inches high.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742). OSHA has authority to enter and inspect workplaces, question employees, and conduct other investigative activities, either in response to a worker's complaint or on its own initiative. Whenever violations are confirmed, the agency is authorized to issue citations, propose and enforce administrative penalties, and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (see special note above) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating storage and handling of anhydrous ammonia in agricultural workplaces have been approved and are in effect in the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

Alaska

STATE HEALTH, SAFETY AND HOUSING LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 - 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1010

GENERAL SUMMARY: Under Alaska's health, safety and housing laws, the state labor department is authorized to adopt and enforce specific occupational safety and health standards conducive to safe and healthful working conditions in all workplaces. These standards must be at least as effective as the corresponding regulations adopted by the U.S. Occupational Safety and Health Administration.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Alaska's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and may be enforced against any agricultural establishment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

→ ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 - 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: The state industrial commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Arizona's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Cal. Lab. Code §§ 6300-6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The state administering agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. California's ammonia safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Colorado

ANHYDROUS AMMONIA ACT

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-13-101 - 35-10-109

RELATED REGULATIONS: 8 Code Colo. Regs. 1202-5

GENERAL SUMMARY: Article 13 of the Colorado agricultural statutes authorizes the state agriculture department to adopt specific safety standards governing the design, construction, location, installation and operation of equipment for storing, handling, transporting and utilizing anhydrous ammonia as an agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: Farm operators who use ammonia on the farm must comply with the following regulatory requirements established by the state agriculture department under the Anhydrous Ammonia Act.

CONSTRUCTION OF AMMONIA CONTAINERS — All containers used for the transportation, storage or application of anhydrous ammonia, as well as the fittings, valves and other appurtenances connected to such containers, must be built in accordance with detailed specifications prescribed in the regulations, and containers and valves must be properly marked with certain identifying information.

ON-FARM EQUIPMENT — The regulations require that ammonia containers of 3,000-gallon capacity or less that are attached to farm vehicles for transportation to and from the fields must be safely mounted on the vehicle or trailer, and trailers must be securely attached to the vehicle drawing them. Similarly, all containers mounted on farm equipment and used for the application of ammonia to the soil must be securely attached and fitted with a level gauge and certain prescribed valves.

SAFETY EQUIPMENT AND TRAINING — At all places where anhydrous ammonia is handled or transported, there must be on hand at least one pair of tight-fitting goggles or a full-face shield, at least one pair of protective gloves, and a container of not less than 5 gallons of readily available clean water. Personnel required to handle ammonia must be trained in safe operating practices and appropriate procedures in the event of emergencies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection and Consumer Services Division, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-867-9213). This agency has authority to make periodic inspections and respond to complaints in an effort to disclose and correct violations of these provisions. Whenever an infraction or deficiency is not corrected after notice and reasonable time, the agency may seek injunctive relief in state court. The Department may also impose civil penalties of up to \$750 per day per violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Hawaii

HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (ANHYDROUS AMMONIA)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 – 396-20
RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: The state agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Hawaii's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).

Indiana

AGRICULTURAL AMMONIA LAW

STATUTORY CITATION: Ind. Code §§ 15-16-1-1 - 15-16-1-16

RELATED REGULATIONS: 355 Ind. Admin. Code §§ 3-1-1 - 3-10-6

GENERAL SUMMARY: With the aim of protecting users of such materials and safeguarding the public at large, the agricultural ammonia law regulates facilities where anhydrous ammonia is distributed for use as an agricultural fertilizer within the state, and authorizes the adoption of minimum safety standards covering the storage, handling, utilization and transportation of ammonia and ammonia solutions.

SPECIFIC TERMS AND CONDITIONS: Among the specific protections spelled out in the law and administrative regulations are these:

DESIGN REQUIREMENTS — Tanks and other containers used to transport anhydrous ammonia to and from the fields, or to apply ammonia to the soil, must be designed according to detailed specifications established by the state chemist. All such containers must also be properly equipped with prescribed gauges, valves, hoses and other fittings. The regulations also require that certain identifying markings and emergency information be affixed to each ammonia container.

LOCATION AND EMERGENCY INFORMATION — Ammonia containers at any permanent or satellite storage area must be located at least 400 feet from any residence, 1,000 feet from any school, and 2,000 feet from any hospital or nursing home. At all vehicle entry points at each permanent or satellite storage facility, there must be emergency response information posted, to include the name of the manager and at least one other responsible person, the telephone number of each person listed, the 911 address assigned to the location, and the phrase "Anhydrous Ammonia."

MOUNTING REQUIREMENTS — Tanks used for on-farm transportation or application of ammonia must be securely attached to the trailer, tractor or other farm vehicle on which they are mounted. Every trailer carrying an ammonia field storage tank is required to carry a container of 5 gallons or more of fresh water.

UNLAWFUL ACTS — Among other offenses defined in the law, it is illegal (1) to store, transport or use any agricultural ammonia or ammonia solution in violation of the rules and regulations adopted under the law's authority, (2) to fail to install or maintain ammonia equipment in a safe operating condition, or (3) to violate a corrective order issued by the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492). Upon confirming a violation of the agricultural ammonia law or its associated regulations, the state chemist's office, or any agent authorized by the office, may issue a written order to the owner or operator of the facility or equipment involved to correct the violation. Such an order will normally include a time limit for corrective action, but the deadline is subject to extension when circumstances warrant.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 - 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: The commission has adopted standards for the storage and handling of anhydrous ammonia. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia), but except in response to an employee's complaint, the state enforcement agency is prohibited from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Iowa

→ OCCUPATIONAL SAFETY AND HEALTH LAW (ANHYDROUS AMMONIA)

STATUTORY CITATION: Iowa Code §§ 88.1 - 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.10.20

GENERAL SUMMARY: Iowa's occupational safety and health law authorizes the state labor commissioner to establish and enforce specific safety and health standards in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Iowa's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

KANSAS ANHYDROUS AMMONIA LAW

STATUTORY CITATION: Kan. Stat. §§ 2-1212 - 2-1219

RELATED REGULATIONS: Kan. Admin. Regs. §§ 4-10-1 - 4-10-17

GENERAL SUMMARY: For the safety of farm fertilizer users and the public at large, the Kansas Anhydrous Ammonia Law directs the state agriculture board to adopt regulations for the safe handling, storage and transportation of anhydrous ammonia, and defines certain unlawful acts involving the use of ammonia.

SPECIFIC TERMS AND CONDITIONS

REGULATORY STANDARDS — Tanks or other containers used to transport anhydrous ammonia to and from the fields, or to apply ammonia to the soil, must comply with regulatory standards established by the agriculture board, as outlined in brief below.

On-Farm Transportation Systems — Tanks that are mounted on wagon-type farm vehicles and used to transport ammonia must be designed according to quantitative and qualitative safety specifications, must be equipped with prescribed gauges, valves and hoses, and must be properly marked with identifying information and warnings. Each tank must be securely attached to its vehicle or trailer, and there must be a 5-gallon container of water on the trailer or inside the pulling vehicle.

On-Farm Application Systems — Containers attached to tractors or other farm implements and used for the application of anhydrous ammonia must be constructed, equipped, mounted and labeled with warning and safety information as prescribed in the regulations. A 5-gallon container of water must be carried on the trailer to which each ammonia tank is attached, or carried inside the pulling vehicle.

PROHIBITED ACTS — Among other offenses defined in the statute, it is unlawful for anyone to use any equipment intended for the handling of anhydrous ammonia when such equipment is defective or otherwise unsafe.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide and Fertilizer Program, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6688). Department inspectors have the right to enter private property to inspect ammonia facilities and equipment. When inspection reveals evidence of a violation, the agency may issue a warning or stop-use order and may also pursue prosecution in the courts. Violators are subject to a fine of up to \$500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kentucky

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 - 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:307

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Standards for the storage and handling of anhydrous ammonia have been adopted under the authority of the state Occupational Safety and Health Act. Those standards are identical to the anhydrous ammonia regulations established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

ANHYDROUS AMMONIA LAW OF LOUISIANA

STATUTORY CITATION: La. Rev. Stat. §§ 40:1911 - 40:1917

RELATED REGULATIONS: La. Admin. Code Title 55, Part IX, Ch. 15

GENERAL SUMMARY: In the interest of public safety, the Anhydrous Ammonia Law authorizes, among other measures, the adoption and enforcement of rules governing the storage, utilization, sale and transportation of anhydrous ammonia intended for use as a fertilizer.

SPECIFIC TERMS AND CONDITIONS: Using the authority noted above, the state Liquefied Petroleum Gas Commission has adopted the 1989 editions of the American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia (except for systems mounted on railcars). The following are key provisions relevant to agricultural employees working with or in proximity to anhydrous ammonia.

CONSTRUCTION OF CONTAINERS — Tanks used for the storage and transportation of anhydrous ammonia must be constructed in accordance with detailed specifications referenced in the ANSI standards. All such containers must be equipped with prescribed gauges and valves and must be properly marked with required warnings. Hoses, valves and other fittings must meet specified safety standards.

ON-FARM EQUIPMENT — Tanks attached to farm wagons or trailers for transportation of anhydrous ammonia to and from the fields must be securely mounted, and each wagon or trailer must be securely attached to the tractor or other vehicle pulling it.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Liquefied Petroleum Gas Commission, Louisiana Department of Public Safety and Corrections, Baton Rouge, Louisiana 70806 (225-925-4895). The law confers access rights to private farming operations on inspectors authorized by the Commission, for purposes of inspecting equipment used to dispense or apply anhydrous ammonia. To prevent or stop any violation of the safety standards applicable to this compound, the Commission is empowered to seek injunctive relief through the courts in the parish in which the agricultural operator is domiciled or where the violation is occurring.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 – 5-1103

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Maryland's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) but may be enforced against any agricultural operation in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499). Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

Michigan

■ MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 - 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.45501 - 408.45502

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Michigan's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777). In response to a complaint or on its own initiative, MIOSHA staff may enter any public or private property in the state to enforce the anhydrous ammonia standard. Employers found to have violated any aspect of the standard will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Minn. Stat. §§ 182.65 - 182.676

RELATED REGULATIONS: Minn. Admin. R. 5205.0010

GENERAL SUMMARY: The state Occupational Safety and Health Act authorizes the adoption and enforcement of specific occupational safety and health standards.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Minnesota's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

FERTILIZER, SOIL AMENDMENT, AND PLANT AMENDMENT LAW

STATUTORY CITATION: Minn. Stat. §§ 18C.001 - 18C.80

RELATED REGULATIONS: Minn. Admin. R. 1513.0010 - 1513.1100

GENERAL SUMMARY: The Fertilizer, Soil Amendment, and Plant Amendment Law regulates the sale, use and storage of fertilizers and related products used to promote plant growth. Under rulemaking authority granted by this statute, the state agriculture commissioner has adopted regulations governing the design, construction, location, installation and operation of anhydrous ammonia systems, which are widely used in agriculture.

SPECIFIC TERMS AND CONDITIONS: Among many other provisions, the anhydrous ammonia regulations enforced by the state agriculture department include provisions relevant to workers who transport or apply ammonia in the fields.

SAFETY TRAINING — Workers required to handle, transport or otherwise work with ammonia must receive federally prescribed safety training.

CONTAINERS — Tanks attached to farm wagons and other implements used to transport ammonia must be securely mounted, and all gauges, connections, valves, guards and other appurtenances must comply with qualitative and quantitative standards spelled out in the regulations.

WARNING SIGNS — On each side and at each end of an on-farm ammonia container, the words "Anhydrous Ammonia" and "Inhalation Hazard" must appear, in letters at least 2 inches high.

SAFETY EQUIPMENT — An ammonia tank must be equipped with at least 5 gallons of clean water, in a vessel designed to provide ready access to the water for flushing any area of the body contacted by ammonia.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Regulation, Inspection and Enforcement Division, Minnesota Department of Agriculture, St. Paul, Minnesota 55155 (651-201-6333).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Missouri

SEED, FERTILIZER, AND FEED LAWS (ANHYDROUS AMMONIA STANDARDS)

STATUTORY CITATION: Mo. Rev. Stat. § 266.355

RELATED REGULATIONS: Mo. Code Regs. Title 2, § 90-11.010

GENERAL SUMMARY: Chapter 266 of the state statutes includes a provision authorizing adoption and enforcement of minimum general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting and utilizing anhydrous ammonia as an agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: Under the statutory authority noted above, the state agriculture department has adopted the American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia. The ANSI standards prescribe detailed specifications for the construction of ammonia storage tanks and associated components such as valves, hoses, gauges and other fittings. The standards also generally require that all personnel handling ammonia be trained in safe operating practices and appropriate emergency procedures.

More specifically, tanks attached to farm wagons, tractors or trailers for the purpose of transporting anhydrous ammonia to and from the fields, or applying ammonia to crops, must be securely mounted, equipped with certain required fittings and gauges, and properly labeled with prescribed identifying information. Storage and application tanks used in the field must be accompanied by one pair of goggles or a face shield, a pair of protective gloves, and a container of not less than 5 gallons of water for emergency purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Weights and Measures, Missouri Department of Agriculture, Jefferson City, Missouri 65102 (573-751-7062). This agency is responsible for performing safety inspections on anhydrous ammonia storage facilities, nurse tanks, and applicators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

ANHYDROUS AMMONIA FACILITIES SAFETY ACT

STATUTORY CITATION: Mont. Code §§ 80-10-501 – 80-10-509

RELATED REGULATIONS: Mont. Admin. R. 4.12.701 – 4.12.743

GENERAL SUMMARY: The Anhydrous Ammonia Facilities Safety Act authorizes the state agriculture department to adopt rules applicable to facilities used to process, store, distribute and apply anhydrous ammonia, a commonly used and hazardous agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS: In addition to provisions governing the design, construction, repair, alteration, location, installation and operation of off-farm anhydrous ammonia tanks and related equipment, the regulations include requirements for the safe transportation, handling and application of ammonia by on-farm personnel.

ON-FARM TRANSPORTATION SYSTEMS — Containers of 2,000 gallons capacity or less that are mounted on farm wagons used to transport ammonia are subject to detailed qualitative and quantitative standards governing construction, mountings, valves and accessories, and safety markings identifying the substance inside. The wagons must be securely attached to the vehicle pulling them and constructed to prevent the towed wagon from whipping or swerving from side to side.

All farm wagons are required to carry at least 5 gallons of readily accessible clean water, for emergency treatment in the event of injuries to workers handling or applying the product.

ON-FARM APPLICATION SYSTEMS — Containers mounted on farm implements used for the field application of ammonia must meet prescribed standards of construction, must be mounted securely, and must be marked clearly to identify the substance inside. Each such container must be equipped with a liquid-level gauge, a shutoff valve, and related devices. Applicators may not be filled any closer than 100 yards from any occupied building.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Commodity Services Bureau, Montana Department of Agriculture, Helena, Montana 59601 (406-444-5419). The Department has authority to access and inspect any anhydrous ammonia facility in Montana, and when a violation is confirmed the agency may — after an opportunity for a hearing — certify the facts to a prosecuting attorney. Penalties range from \$300 to \$500 first a first violation, and up to \$1,000 thereafter.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 - 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration for the storage and handling of anhydrous ammonia, a hazardous and commonly used agricultural fertilizer (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

○ OCCUPATIONAL HEALTH AND SAFETY ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 - 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.9(A)

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: The state Environmental Improvement Board has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. New Mexico's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY - Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (ANHYDROUS AMMONIA)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 – 95-160 RELATED REGULATIONS: 13 N.C. Admin. Code 07F.0101

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. North Carolina's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

 $PRIMARY\ ENFORCEMENT\ AGENCY-Agricultural\ Safety\ and\ Health\ Bureau,\ Occupational\ Safety\ and\ Health\ Division,\ North\ Carolina\ Department\ of\ Labor,\ Raleigh,\ North\ Carolina\ 27603\ (919-807-2926;\ toll-free\ 800-625-2267).$

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

ANHYDROUS AMMONIA FACILITIES LAW

STATUTORY CITATION: N.D. Cent. Code §§ 19-20.2-01 - 19-20.2-10

RELATED REGULATIONS: N.D. Admin. Code 7-12-01

GENERAL SUMMARY: Chapter 19-20.2 of the state statutes regulates large-capacity facilities used to store anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer. A key section in the law provides for adoption of the 1989 American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia, which includes measures relevant to agricultural employees working with or in proximity to anhydrous ammonia on the farm and in the fields.

SPECIFIC TERMS AND CONDITIONS

CONSTRUCTION OF CONTAINERS — Tanks used for the storage and transportation of anhydrous ammonia must be constructed in accordance with detailed specifications referenced in the ANSI standards. All such containers must be equipped with prescribed gauges and valves and must be properly marked with required warnings. Hoses, valves and other fittings must meet specified safety standards.

ON-FARM EQUIPMENT — Tanks attached to farm wagons or trailers for transportation of anhydrous ammonia to and from the fields must be securely mounted, and each wagon or trailer must be securely attached to the tractor or other vehicle pulling it.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Enforcement Program, North Dakota Department of Agriculture, Bismarck, North Dakota 58505 (701-328-4922). In addition to its associated licensing authority, the Department is responsible for inspecting on- and off-farm installations for the storage of anhydrous ammonia and farm transportation vehicles designed to apply ammonia as an agricultural fertilizer. The Department may suspend or revoke the license of any storage facility, and may order the discontinuation of use of any farm implement, found in violation of these provisions. Violators may also be charged with a misdemeanor.

Ohio

FERTILIZER LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Ohio Rev. Code §§ 905.40 - 940.411

RELATED REGULATIONS: Ohio Admin. Code 901:5-3-01 - 901:5-3-14

GENERAL SUMMARY: Chapter 905 of the Ohio state statutes regulates, in part, the manufacture, distribution and application of fertilizers in the state. It includes provisions (1) requiring prior state approval for construction of anhydrous ammonia storage facilities, (2) authorizing the state agriculture director to adopt and enforce rules governing the storage and handling of anhydrous ammonia used for agricultural purposes, and (3) prohibiting the use of equipment or systems found out of compliance with those rules.

SPECIFIC TERMS AND CONDITIONS: Using the rulemaking authority cited above, the agriculture director has adopted anhydrous ammonia safety standards immediately relevant to workers on farms and in the field.

ON-FARM DELIVERY SYSTEMS — Containers of 3,000 gallons capacity or less that are mounted on farm wagons used to transport ammonia are subject to detailed qualitative and quantitative standards governing construction, mountings, valves and accessories, and safety markings identifying the substance inside. The wagons must be securely attached to the vehicle pulling them.

All farm wagons are required to carry at least 5 gallons of readily accessible clean water, for emergency treatment in the event of injuries to workers handling or applying the product.

ON-FARM APPLICATION SYSTEMS — Containers mounted on farm implements used for the field application of ammonia must meet prescribed standards of construction, must be mounted securely, and must be marked clearly to identify the substance inside. Each such container must be equipped with a liquid-level gauge, a shutoff valve, and related devices.

Each unit transporting ammonia must (1) carry at least 5 gallons of water, for emergency treatment in the event of injuries to workers handling or applying the product, and (2) be equipped with rubber gloves and either a full face mask, a pair of tight-fitting goggles or a full face shield.

SAFETY TRAINING — Workers required to handle ammonia must be trained in safe operating practices and proper action to take in the event of emergencies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

OREGON SAFE EMPLOYMENT ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 - 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-0800

GENERAL SUMMARY: The Oregon Safe Employment Act confers broad authority on the state consumer and business services department to set standards to assure every covered employee a safe and healthful place of employment.

SPECIFIC TERMS AND CONDITIONS: The consumer and business services department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Oregon's ammonia safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply to all agricultural establishments.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764). This agency is responsible for enforcing the anti-retaliation provision noted above.

Puerto Rico

○ OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 – 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor secretary has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Puerto Rico's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply only to farm operations that employ 10 or more workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

OCCUPATIONAL HEALTH AND SAFETY LAW (ANHYDROUS AMMONIA)

STATUTORY CITATION: S.C. Code §§ 41-15-80 - 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 6

GENERAL SUMMARY: The occupational health and safety law authorizes the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor director has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. South Carolina's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 - 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-01

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Tennessee's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

■ UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Utah Code §§ 34A-6-101 - 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-1

GENERAL SUMMARY: The Utah Occupational Safety and Health Act authorizes the state enforcement agency to establish specific safety and health regulations for any trade or industry.

PROVISIONS APPLICABLE TO AGRICULTURE: The state agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Utah's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

OCCUPATIONAL SAFETY AND HEALTH LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 - 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Vermont's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

PRIMARY ENFORCEMENT AGENCY - Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

OCCUPATIONAL SAFETY AND HEALTH LAWS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 - 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Virginia's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 – 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Part U-1

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to agricultural employers in the state, including rules for the storage and handling of anhydrous ammonia, a hazardous and commonly used agricultural fertilizer.

SPECIFIC TERMS AND CONDITIONS

Washington's ammonia safety regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and may be enforced against any agricultural operation in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).

Wisconsin

O REGULATION OF INDUSTRY GENERAL PROVISIONS (ANHYDROUS AMMONIA)

STATUTORY CITATION: Wis. Stat. § 101.10

RELATED REGULATIONS: Wis. Admin. Code Ch. SPS 343

GENERAL SUMMARY: Chapter 101 of the Wisconsin statutes includes a provision regulating the storage and handling of anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer. Under the law's rulemaking authority, the state safety department has adopted the American National Standards Institute's safety requirements for the storage and handling of anhydrous ammonia (K61.1-1999). The ANSI standards prescribe detailed specifications for the construction of ammonia storage tanks and associated components such as valves, hoses, gauges and other fittings. The standards also generally require that all personnel handling ammonia be trained in safe operating practices and appropriate emergency procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: State law explicitly prohibits the safety department from regulating workplace safety and health in agricultural and non-agricultural workplaces where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan. Since OSHA has adopted anhydrous ammonia safety standards and Wisconsin does not have an OSHA-approved state plan, the state anhydrous ammonia regulations are **not enforced** in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (ANHYDROUS AMMONIA)

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 - 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Ch. 2

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The state OSHA Commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Wyoming's ammonia safety regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Pesticides & Agricultural Chemicals — Anhydrous Ammonia) and apply to all agricultural operations in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786).

Alaska

STATE HEALTH, SAFETY AND HOUSING LAWS (EMPLOYEE SAFETY EDUCATION)

STATUTORY CITATION: Alaska Stat. §§ 18.60.066 - 18.60.068

GENERAL SUMMARY: The state health, safety and housing laws grant most workers in the state the right to information regarding toxic or hazardous substances to which they may be exposed at the workplace, and require employers to provide a safety education program to workers newly assigned to jobs where such exposure may occur.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as their counterparts in non-agricultural industries, every farm employer with one or more employees working in a place not used primarily as a personal residence must make available to any employee, on request, written information on each toxic or hazardous substance to which the worker may be exposed. Before a worker is assigned to a job which could result in exposure to a toxic substance, the employer must provide a safety instruction program that informs the worker of (1) the location, properties and effects of the hazardous or toxic substances to which he or she will be exposed in the workplace, (2) the nature of the operations that could result in exposure and the necessary handling practices or precautions to be observed, and (3) the location, purpose and proper use of personal protective equipment. Finally, each employer must post written information at the job site identifying the toxic substances with which employees may come into contact and advising them of a location, in or near the workplace and accessible to the workers, where product safety and health information may be inspected.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

O PUBLIC HEALTH AND WELFARE LAWS (HAND HARVESTING BY CHILDREN)

STATUTORY CITATION: Ark. Code § 20-20-303

GENERAL SUMMARY: Chapter 20 of Arkansas' public health and welfare statutes authorizes the state health department to establish a list of approved pesticides and other agricultural chemicals deemed safe for the occupational exposure of children 12 and 13 years of age who are employed in hand harvesting of short-season crops. The department may also establish time periods after which it is deemed safe for 12- and 13-year-old hand-harvest workers to re-enter the fields after those chemical products are applied.

SPECIFIC TERMS AND CONDITIONS: Under this authority, the Arkansas Department of Health has adopted **no regulation** listing any pesticide products found safe for 12- and 13-year-old hand harvesters, nor established safe re-entry periods applicable to such workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Arkansas Department of Health, Little Rock, Arkansas 72205.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). This agency is responsible for issuing youth employment certificates in Arkansas, and for enforcing other provisions in the state's child labor laws.

California

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (REPORTING OF PESTICIDE POISONINGS)

STATUTORY CITATION: Cal. Lab. Code §§ 6409

GENERAL SUMMARY: The California Occupational Safety and Health Act imposes the responsibility on all employers in the state to safeguard the well-being of their employees. Not only are employers obligated to comply with specific safety and health orders and regulations issued under the Act's rulemaking provisions, but they must also observe certain reporting requirements related to accidents involving pesticides.

SPECIFIC TERMS AND CONDITIONS: Any physician who treats or attends to an injured employee must file a report of occupational injury or illness with the employer or the employer's insurer. If treatment is for pesticide poisoning, or a condition suspected of being pesticide poisoning, the employer or the employer's insurer must file a copy of the physician's report with the state industrial relations department within 5 days. The treating physician must also forward the report to the state agency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000). Failure to file a report regarding an injured employee is a misdemeanor, punishable by a fine of up to \$200.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Oregon

OREGON VEHICLE CODE (WORKER TRANSPORT VEHICLES)

STATUTORY CITATION: Or. Rev. Stat. §§ 820.010 - 820.070

RELATED REGULATIONS: Or. Admin. R. 735-120-0000 - 735-130-0000

GENERAL SUMMARY: Any motor vehicle which (1) is furnished by an employer who employs or uses 2 or more workers, and (2) is used to transport one or more workers to and from their places of employment, is subject to minimum standards embodied in the vehicle safety code. These provisions apply implicitly to agricultural employers who transport farmworkers to and from agricultural job sites.

SPECIFIC TERMS AND CONDITIONS

CONSTRUCTION AND EQUIPMENT — Passenger automobiles, station wagons, trucks, buses and other motor vehicles operated by or on behalf of employers must be constructed and equipped in accordance with detailed specifications governing coupling devices, lighting fixtures and reflectors, the motor exhaust system, rear-view mirrors, service and parking brakes, the steering mechanism, tires, warning and signaling devices, and windshield wipers.

OPERATING REGULATIONS — Employers are responsible for observance of driving rules, and for compliance with regulations on the loading and carrying of passengers and freight, maximum daily hours of service by drivers, minimum age and skill of drivers, physical condition of drivers, refueling, road warning devices, and the transportation of gasoline and explosives.

PASSENGER SAFETY — Vehicles must have properly designed or equipped emergency exits, fire extinguishers, first-aid kits, means of entry and exit, side walls, and tailgates or other means of restraining freight and passengers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Vehicle Equipment Safety Standards Office, Division of Motor Vehicles, Oregon Department of Transportation, Salem, Oregon 97314 (503-986-4198). The Division is authorized to adopt and amend from time to time the safety code applicable to worker transport vehicles. In enforcing the code, DMV may inspect any vehicle subject thereto and may order corrective action by the vehicle's owner whenever it finds a violation of minimum safety standards. Failure by a vehicle owner to comply with the code or an order by the DMV is treated as a Class B traffic infraction, as is operation of such a vehicle in violation of the code.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Affairs, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689). Oregon OSHA has concurrent jurisdiction with the Motor Vehicles Division in adopting rules governing worker transport vehicles and in enforcing those rules.

Utah

O WORKER TRANSPORTATION LAW

STATUTORY CITATION: Utah Code §§ 34-36-1 – 34-36-4

RELATED REGULATIONS: Utah Admin. Code R. 614-6-6

GENERAL SUMMARY: Whether or not it is used on a public highway, a motor vehicle furnished by an employer to transport one or more workers to and from their places of employment must at all times be maintained in a safe condition and operated in a safe manner, in accordance with administratively prescribed rules and minimum standards.

PROVISIONS APPLICABLE TO AGRICULTURE: The worker transportation law does not apply to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114.

U.S.

← FEDERAL TRANSPORTATION LAWS (MIGRANT WORKER MOTOR CARRIERS)

STATUTORY CITATION: 49 USC §§ 31501 - 31504 and §§ 501 - 526

RELATED REGULATIONS: 49 CFR Part 398

GENERAL SUMMARY: Chapter 315 of the federal transportation laws authorizes the U.S. transportation secretary to prescribe operating standards and equipment requirements for vehicles used to transport migrant agricultural workers, qualifications and maximum hours of service for drivers of such vehicles, and requirements for the comfort of passengers. Chapter 5, in turn, authorizes enforcement of the statutory and regulatory provisions governing migrant worker transportation and establishes penalties for violations.

SPECIFIC TERMS AND CONDITIONS: Individuals, businesses, associations and other entities (other than those providing service to the general public) that transport 3 or more migrant agricultural workers at a time to or from their employment on a trip of at least 75 miles and across state lines, in any motor vehicle other than a passenger car or station wagon, are required to comply with detailed regulatory requirements and restrictions, summarized in brief below.

Exception — The standards below do not apply to transportation of migrant workers when (1) the vehicle is designed or used to transport between 9 and 15 passengers, including the driver, (2) the carrier is directly compensated for the transportation service, and (3) the vehicle is operated beyond a 75-mile radius from the driver's normal work-reporting location. Drivers and vehicles in these cases are subject to safety regulations for commercial motor carriers, which are considerably more stringent.

QUALIFICATIONS OF DRIVERS OR OPERATORS — Drivers must meet certain physical qualifications, including eyesight and hearing criteria, and submit to initial and periodic physical examination evidenced by a doctor's certification. Drivers must also meet age and experience requirements and possess a valid operator's license for the class of vehicle to be driven.

DRIVING REGULATIONS — Drivers must adhere to state and local driving rules and observe prescribed procedures related to vehicle equipment, safe loading, rest and meal stops, authorized types of vehicles, vehicle fueling, and other safety measures.

HOURS OF SERVICE — No driver may drive, or be permitted or required to drive, for more than 10 hours (excluding rest and meal stops) in any period of 24 consecutive hours, unless the driver is afforded 8 consecutive hours of rest immediately following the 10-hour driving period.

VEHICLE PARTS AND ACCESSORIES — Vehicles must be equipped with prescribed devices, parts and accessories, in accordance with specifications covering lighting devices, brakes, coupling devices and fifth wheels, tires, and the passenger compartment.

PROTECTION OF PASSENGERS FROM WEATHER — To protect passengers from inclement weather, the passenger compartment of any vehicle (other than a bus) carrying migrant workers must be equipped with a top at least 80 inches high above the floor, and with facilities for covering the sides and ends of the passenger compartment. Any removable weather-protective devices such as a tarpaulin must be secured in place.

VEHICLE INSPECTION AND MAINTENANCE — The person in control of any vehicle used to transport workers is obligated to inspect and maintain the vehicle and its accessories, to assure its safe and proper operating condition.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, D.C. 20590 (800-832-5660). Through field offices in every state, FMCSA agents are authorized to inspect vehicles being used to transport migrant agricultural workers. Any vehicle found on inspection to be likely to cause an accident or breakdown by virtue of its mechanical condition or loading may be declared and marked "out of service" and may not be operated until required repairs noted on the compliance check form have been completed. The agency is authorized to receive and investigate complaints, to conduct related hearings, and when violations are found, to assess civil money penalties. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - The migrant worker transportation regulations are also enforced by state motor carrier safety enforcement agencies.

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (MOTOR VEHICLE SAFETY)

STATUTORY CITATION: 29 USC § 1841

RELATED REGULATIONS: 29 CFR Part 500, Subpt. D

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act regulates the employment activities of farm labor contractors, and imposes related limitations and obligations on agricultural employers and agricultural associations which employ migrant or seasonal farmworkers. Apart from such other major provisions as contractor registration, notification, recordkeeping, payment of wages, and housing, the Act includes specific requirements relating to worker transportation.

SPECIFIC TERMS AND CONDITIONS: In general, any farm labor contractor, agricultural employer or agricultural association using (or causing to be used) any vehicle to transport a migrant or seasonal agricultural worker must comply with prescribed safety and insurance requirements, key elements of which are summarized below.

Exceptions — These provisions do not apply to (1) transportation of any worker on a tractor, combine, harvester or similar machinery while the worker is engaged in planting, cultivating or harvesting activities, (2) any individual worker carrying only immediate family members, or (3) carpooling arrangements made by the workers themselves, using one of the workers' own vehicles and not directed by an agricultural employer or association or participated in by a farm labor contractor.

PASSENGER CARS AND STATION WAGONS — Passenger cars and station wagons used by a contractor, employer or association to transport workers must meet qualitative standards covering external lights, brakes, tires, steering, horn, mirrors, windshields and windshield wipers, the fuel system, exhaust system, ventilation, safe loading, seats, handles and latches, and the passenger compartment. These same specifications also apply to vehicles other than passenger cars and station wagons, provided the distance traveled on any one trip does not exceed 75 miles (one trip may have numerous intermediate stops). Pickup trucks transporting passengers only within the cab are treated as station wagons.

OTHER VEHICLES ON TRIPS EXCEEDING 75 MILES — When a migrant or seasonal worker is transported by a contractor, employer or association in a vehicle other than a passenger car or station wagon on any trip of more than 75 miles, the vehicle is subject to the U.S. Department of Transportation's migrant worker transportation safety standards (described in the preceding entry), but without regard to the mileage and state-line limitations mentioned in those provisions. In brief, these standards include:

Driver Qualifications — Drivers must meet minimum prescribed physical requirements, obtain a certificate of physical examination from a licensed medical doctor, meet specified age and experience requirements, possess a valid driver's license for the type of vehicle being used to transport workers, and meet other related standards.

Driver and Vehicle Compliance — The driver must comply with prescribed rules for passenger and cargo loading, driving, meal and rest stops, fueling and other operational functions. The vehicle must meet standards related to parts and accessories, seating capacity, passenger safety, and other equipment specifications.

INSURANCE — A farm labor contractor, agricultural employer or agricultural association may not transport migrant or seasonal farmworkers in any vehicle owned, controlled or operated by the contractor, employer or association, unless he or she has an insurance policy or liability bond in effect which insures against liability for damage to persons or property arising from ownership or operation of the vehicle. The liability limit must be no less than \$100,000 for each seat in the vehicle, up to a maximum of \$5,000,000 for any one vehicle. In general, the owner or lessor of the vehicle is responsible for providing the required insurance.

Likewise, when an employer of a migrant or seasonal farmworker provides workers' compensation insurance protecting against bodily injury or death while the worker is being transported, the employer must also obtain property damage insurance with minimum coverage of \$50,000 for loss or damage in any one accident.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is responsible for investigating complaints or suspected violations under the Act, including those involving the transportation of agricultural workers. Wage and Hour personnel may interview workers, contractors and employers, inspect and copy records, and consult with related compliance agencies in enforcing these provisions. When a violation is confirmed, the agency may suspend or revoke the contractor's certificate of registration and may impose civil penalties against the contractor, employer or association involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

California

STATUTORY CITATION: Cal. Veh. Code §§ 31401-31409

RELATED REGULATIONS: Cal. Code Regs. Title 13, §§ 1200-1270.5

GENERAL SUMMARY: The California Vehicle Code authorizes the adoption of regulations to promote the safe operation of farm labor vehicles, defined as any motor vehicle designed, used or maintained for the transportation of 9 or more farmworkers (in addition to the driver) to or from a place of employment or employment-related activities. Farm labor vehicles must also be inspected and may not be operated without a certificate issued by the enforcement agency in accordance with these provisions.

SPECIFIC TERMS AND CONDITIONS

INSPECTION — Every farm labor vehicle must be inspected at least once a year to determine if its construction, design and equipment comply with all applicable laws and regulations. No one may drive any farm labor vehicle unless a certificate issued by the enforcement agency and attesting to the inspection and compliance is displayed in the vehicle. Except to take the unloaded vehicle to a repair facility, or until the vehicle and its equipment have been made to conform to state standards, no one may drive any farm labor vehicle after notice by the state agency to the owner that the vehicle is unsafe or not equipped as required.

MECHANIC'S CERTIFICATION — A farm labor vehicle known to an owner, farm labor contractor or driver to be unsafe, or not equipped as required by law, may not be used to transport any passengers until it is properly repaired or equipped and certified as such by a competent mechanic.

DESIGN AND EQUIPMENT REQUIREMENTS — Unless a specific exemption has been granted by the enforcement agency and is carried in the vehicle for which it was issued, every farm labor vehicle must be designed and equipped as prescribed by regulation. Among other requirements, each vehicle's brakes, tires and rims, exhaust system, electrical system, lighting, windows, mirrors, doors and seats must meet detailed numerical and qualitative standards, and the vehicle must have a fire extinguisher, first-aid kit and roadside warning devices. With few exceptions, farm labor vehicles must be equipped with passenger seatbelts. The administrative rules also prescribe the design and maintenance of vehicle emergency exits.

PENALTIES — Anyone who operates a farm labor vehicle that presents an immediate safety hazard is guilty of a misdemeanor punishable by a fine ranging from \$1,000 to \$5,000, by a jail sentence of up to 6 months, or both.

SPECIAL NOTES OR ADVISORIES

To report a farm labor vehicle violation, call the Highway Patrol toll-free at 1-800-TELL-CHP (1-800-835-5247).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Commercial Vehicle Section, California Highway Patrol, Sacramento, California 95811 (916-843-3400). The Highway Patrol is responsible for the certification of farm labor vehicles and may inspect any such vehicle on any public roadway in the state, and at any maintenance facility, terminal, labor camp or other private property, to ensure compliance with these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

→ DRIVERS' LICENSE LAWS

STATUTORY CITATION: Cal. Veh. Code §§ 12519

RELATED REGULATIONS: Cal. Code Regs. Title 13, §§ 1200-1270.5

GENERAL SUMMARY: The state drivers' license laws provide for the issuance of farm labor vehicle drivers' certificates, which apply to the operation of any motor vehicle designed, used or maintained for the transportation of 9 or more farmworkers (in addition to the driver) to or from a place of employment or employment-related activities.

SPECIFIC TERMS AND CONDITIONS

FARM LABOR VEHICLE DRIVER'S CERTIFICATE — No person may operate a farm labor vehicle unless the person has in his or her possession (1) a driver's license for the appropriate class of vehicle to be driven, and (2) when transporting one or more farmworker passengers, a farm labor vehicle driver's certificate issued by the state. Before such a certificate will be issued, applicants must, among other requirements, present evidence that they have successfully completed a state-sanctioned driver training course, pass a state-administered examination, and pay a \$12 fee.

GROUNDS FOR REFUSING ISSUANCE — The state administering agency will deny a farm labor vehicle driver's certificate to any applicant who (1) has been convicted, within the 3 years immediately preceding application, of certain specified driving violations, or has had the driving privilege suspended, revoked or placed on probation for a cause involving unsafe operation of a motor vehicle, (2) has a history of excessive use of alcoholic beverages or drugs, or (3) does not meet state minimum medical standards. Issuance of a certificate may also be denied to any applicant who has been determined to be a reckless or incompetent driver.

GROUNDS FOR REVOCATION — The state agency will revoke the farm labor vehicle driver's certificate of any driver who, after issuance of the certificate, (1) is convicted of certain specified driving violations, has had the driving privilege suspended or revoked for a cause involving unsafe operation of a motor vehicle, or is found by the state agency to be a negligent driver, (2) is incapable of safe driving due to excessive and continual use of alcoholic beverages, or (3) habitually or excessively uses or is addicted to the use of any drug. Likewise, the agency may revoke a certificate for any cause, whether existing before or after the issuance of the certificate, which would represent grounds for refusing to issue a certificate to an applicant.

IMMEDIATE-FAMILY EXEMPTION — In addition to the exception for vehicles used to transport fewer than 9 workers, the farm labor vehicle license laws do not apply to any vehicle carrying only members of the immediate family of the owner or driver of the vehicle.

SPECIAL NOTES OR ADVISORIES

To report a farm labor vehicle violation, call the Highway Patrol toll-free at 1-800-TELL-CHP (1-800-835-5247).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Commercial Vehicle Section, California Highway Patrol, Sacramento, California 95811 (916-843-3400). This agency is responsible for the testing of farm labor vehicle drivers and for issuing temporary certification of qualified drivers pending issuance of a final certificate by the Department of Motor Vehicles. The Highway Patrol is also responsible for enforcing the laws governing operation of motor vehicles on the state's streets and highways.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Licensing Operations Division, Department of Motor Vehicles, Sacramento, California 95818 (916-657-6721). As noted above, the Department of Motor Vehicles is the agency which licenses drivers in the state and issues farm labor vehicle drivers' certificates to applicants who have passed the required examinations and meet other certification standards.

Florida

→ FLORIDA UNIFORM TRAFFIC CONTROL LAW (FARM LABOR VEHICLES)

STATUTORY CITATION: Fla. Stat. §§ 316.622 and 316.003(23)

GENERAL SUMMARY: The Florida Uniform Traffic Control Law includes provisions requiring the inspection and maintenance of motor vehicles used by certain carriers of farm laborers.

SPECIFIC TERMS AND CONDITIONS: Except for drivers transporting only themselves or their immediate family, any person who transports or who contracts or arranges for the transportation of 9 or more migrant or seasonal farmworkers to or from their employment by motor vehicle must comply with state requirements for the maintenance and operation of vehicles under their control, summarized as follows.

COMPLIANCE WITH FEDERAL VEHICLE STANDARDS — The owner or operator of any motor vehicle used to transport farmworkers on Florida's public highways must ensure that the vehicle meets all applicable vehicle safety standards prescribed under the Migrant and Seasonal Agricultural Worker Protection Act and the federal motor carrier laws governing the transportation of migrant agricultural workers (see entries, U.S. — Transportation — Farmworker Transportation Safety).

SEAT BELTS — Farm labor vehicles with a gross weight rating of 10,000 pounds or less must be equipped with an approved seat belt assembly at each passenger position and must display a notice requiring passengers to fasten their seat belts.

AUTHORIZATION STICKER — A farm labor contractor is prohibited from transporting migrant or seasonal farmworkers unless the vehicle clearly displays a state-issued sticker authorizing the contractor to do so.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300). The Highway Patrol has authority to enforce all state traffic laws on all streets and highways throughout the state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – County sheriffs' offices and municipal police departments are responsible for and have authority to enforce all state traffic laws on the streets and roadways within their respective jurisdictions.

Maine

EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (TRANSPORTATION OF WORKERS)

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 643

GENERAL SUMMARY: Chapter 7, Subchapter 2-A of the state labor statutes contains a provision regulating the transportation of farm and forestry workers.

SPECIFIC TERMS AND CONDITIONS: Farm labor contractors who are required to register with the U.S. Department of Labor must provide the migrant and seasonal farmworkers they employ with safe transportation between the workers' lodging and their worksites each day, at no cost to the workers. Among the statutory safety standards that contractors must observe are these:

COMPLIANCE WITH FEDERAL STANDARDS — Each vehicle must meet the vehicle safety standards prescribed by the U.S. Department of Labor's regulations under the Migrant and Seasonal Agricultural Worker Protection Act (see entry, U.S. — Transportation — Farmworker Transportation Safety).

OCCUPANCY — The number of occupants in any vehicle used to transport workers may not exceed the manufacturer's design specifications, but in no case may the number exceed 12 at any time. In the case of a 15-passenger van, the seating immediately behind the rear axle must be removed, limiting maximum occupancy to 11 passengers.

EQUIPMENT — Every vehicle used for worker transportation must be equipped with a working seat belt for each worker and a functional first aid kit that meets federal OSHA standards. There must not be any apparatus, attachment or cargo on the vehicle that interferes with operation of the rear door, the side doors or windows. Attachments on the roof for carrying gear are not permitted.

DRIVERS — Anyone driving a vehicle used to transport workers must meet the driver qualifications and follow the MSPA driving standards referenced above. Except in an emergency, a worker who performs agricultural labor is not allowed to operate a worker transportation vehicle for more than 2 hours a day.

INSURANCE — A worker transportation vehicle must be insured for at least the same minimum liability level as required by the state.

EMERGENCY PREPAREDNESS — Each vehicle must have communication equipment capable of providing the most immediate access to emergency medical services, and there must be a driver available at or near the worksite at all times during the workday. For each job site, an emergency action plan, written in language understandable by the worker crew, must be maintained, and it must include information on how to transport injured workers to the nearest emergency facility and how to direct emergency workers to the location of an injured worker who cannot be moved.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900). The Bureau may inspect vehicles subject to these provisions and has authority to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Upon the written request of the Bureau, the Maine Department of Transportation and Maine Department of Public Safety are required to provide technical services in connection with vehicle inspections and enforcement of these provisions.

Maryland

■ FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 - 7-507

RELATED REGULATIONS: Md. Code Regs. 09.12.45

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, including the provision of worker transportation. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS: Farm labor contractors who use vehicles for transporting migrant agricultural workers in Maryland, or cause vehicles to be used for that purpose, must comply with these requirements:

VEHICLE SAFETY STANDARDS — Each vehicle used to transport migrant farmworkers must conform to applicable federal and state safety standards.

DRIVER LICENSING — Each driver of a vehicle used to transport migrant farmworkers must have a valid and appropriate class of license to operate the vehicle.

INSURANCE — Each vehicle must be insured against liability for injury to persons or property. For vehicles designed for 12 or fewer passengers, the minimum liability limits for bodily injury are \$100,000 per person and \$300,000 per accident, and \$50,000 for property damage. In the case of vehicles designed for more than 12 passengers, minimum coverage for bodily injury per accident increases to \$500,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). Representatives of this agency are authorized to inspect vehicles subject to these provisions, examine the driver's license of anyone operating such a vehicle, and request proof of insurance. Violators are subject to civil penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

■ STATE AGRICULTURE LAWS (TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS)

STATUTORY CITATION: Mich. Comp. Laws §§ 286.601 - 286.602

GENERAL SUMMARY: Chapter 286 of the state agriculture statutes requires the state administering agency to adopt rules establishing minimum health and safety requirements for motor vehicles used to transport migrant agricultural workers to and from agricultural employment. The rules must include specific standards applicable to motor vehicle equipment, accessories and devices, and impose requirements on the drivers of such vehicles.

SPECIFIC TERMS AND CONDITIONS: In lieu of promulgating its own safety standards, Michigan has adopted the federal motor carrier safety regulations applicable to the transportation of agricultural workers (see entry, U.S. — Transportation — Farmworker Transportation Safety). The federal standards are consistent with the state statutory language summarized above and generally apply to individuals, employers and other entities that transport 3 or more migrant agricultural workers at a time to or from their employment on a trip of at least 75 miles.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Commercial Vehicle Enforcement Division, Michigan State Police, Dimondale, Michigan 48821 (517-284-3250). Among other law enforcement functions, the Commercial Vehicle Enforcement Division conducts road patrol activities and operates scale facilities relevant to enforcement of the state motor carrier laws, including these provisions. This agency has authority to inspect vehicles used to transport migrant agricultural workers on any street or highway in Michigan, and may issue citations and make arrests for violations.

North Carolina

■ MOTOR VEHICLE LAWS (MOTOR CARRIERS OF MIGRATORY FARM WORKERS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 20-215.1 – 20-215.5

RELATED REGULATIONS: 19A N.C. Admin. Code 03A .0201 - .0218

GENERAL SUMMARY: Article 6A of the state motor vehicle statutes regulates the transportation of certain migratory farmworkers in North Carolina to and from their places of employment.

SPECIFIC TERMS AND CONDITIONS

TRANSPORTATION STANDARDS — Any person, firm or corporation which, for compensation, transports 5 or more migrant farmworkers in North Carolina at any one time to or from the workplace, in any motor vehicle other than a passenger car or station wagon, must comply with state-prescribed minimum safety standards covering the following subject matter:

Vehicles — Vehicles used to transport workers must be equipped to meet or exceed specifications on coupling devices, lighting equipment, exhaust systems, rear-view mirrors, brakes, steering mechanisms, tires, windshield wipers, and warning devices.

Operating Rules — Migrant motor carriers, as defined in short above, must observe prescribed driving rules, guidelines for the distribution of passengers and load, and maximum hours of service by drivers. Individuals who operate vehicles covered by these provisions must meet minimum age and skill requirements, be in acceptable physical condition, and be properly licensed, all in accordance with specific regulatory standards.

Passenger Safety — Vehicles must be properly outfitted with fire extinguishers and first-aid equipment, must have adequate seating accommodations, and must comply with other passenger safety standards. The law also calls for periodic meal and rest stops and requires operators to observe limits on the passenger capacity of their vehicles.

EXEMPTIONS — The migrant motor carrier provisions do not apply to (1) any migrant farmworker transporting only the worker and the worker's immediate family, (2) the transportation of migratory farmworkers in a vehicle owned by a farmer to and from employment in the farmer's own operation, or (3) any common carrier certified or licensed by the state or federal government.

SPECIAL NOTES OR ADVISORIES

IMPLEMENTING REGULATIONS REPEALED — On November 1, 1991, the detailed state regulatory standards cited above and required under section 215.2 of the statute were repealed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These statutory provisions and minimum standards are enforced by state and local law enforcement agencies, which are authorized to stop any motor vehicle on the public streets and highways for the purpose of assuring compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Division of Motor Vehicles, North Carolina Department of Transportation, Raleigh, North Carolina 27699 (919-716-6650). The Division is responsible for adopting and amending, as needed, the rules implementing the migratory farmworker motor carrier law.

Pennsylvania

SEASONAL FARM LABOR ACT (TRANSPORTATION OF WORKERS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.101 - 1301.606

RELATED REGULATIONS: 34 Pa. Code §§ 31.11 - 31.31

GENERAL SUMMARY: Among numerous other provisions, the Seasonal Farm Labor Act gives the state labor secretary broad authority to issue and enforce administrative rules to improve working conditions for seasonal farmworkers in Pennsylvania. Using that authority, the secretary has adopted detailed rules regulating motor vehicles used to transport farmworkers, imposing standards for the safe operation of such vehicles, and prescribing qualifications for individuals driving them.

The rules apply to any individual or business that uses a motor vehicle (other than a passenger car or station wagon) to transport 3 or more seasonal farmworkers at any one time to or from their farm employment, provided the workers (1) are not year-round employees, and (2) occupy living quarters other than their permanent home.

SPECIFIC TERMS AND CONDITIONS: Among the key requirements spelled out in the administrative regulations are the following:

DRIVER QUALIFICATIONS — To lawfully transport seasonal farmworkers, as defined in brief above, the driver must be at least 21 years of age, must have at least one year's driving experience through all four seasons, and must be able to read and speak English sufficiently to understand highway traffic signs and respond to directions or official inquiries. The driver must possess a valid license or permit authorizing operation of the type of vehicle being used to transport workers.

Likewise, no individual may drive a vehicle used to transport farmworkers unless the individual meets the qualifications listed in the regulations. Among others, these include (1) no loss of a foot, leg, hand or arm, (2) at least 20/40 eyesight in each eye, with or without corrective lenses, (3) ability to distinguish red, green and yellow colors, and (4) no mental, nervous or functional disease that would interfere with safe driving. At least once every 36 months, the driver must submit to a physical examination by a licensed doctor and be found in compliance with all of the state-prescribed standards, as evidenced by the doctor's issuance of a written certificate to that effect. The driver is required to carry the certificate at all times while operating a farmworker transport vehicle

VEHICLE EQUIPMENT — Every vehicle used to transport workers must be equipped with parts, accessories and devices that meet prescribed standards and are in good working order. These include seats, exits, lighting devices and reflectors, brakes, coupling devices, tires, horn, windshield wipers, rear-view mirrors, heaters, fire extinguisher, and road warning devices. Engine fuel may not be carried in or on the vehicle except in a properly mounted tank, and all doors, tailgates, tarps and other such equipment must be securely in place before the vehicle is driven.

PASSENGER HEALTH AND SAFETY — Carriers must provide a reasonable rest stop at least once between meal stops. Meal stops are required no less frequently than every 6 hours, and each meal period must be at least 30 minutes' duration. For trips in excess of 600 miles in a truck, the vehicle must be stopped for a period of at least 8 consecutive hours before or upon completion of 600 miles' travel. Passengers must be protected from inclement weather conditions such as rain, snow or sleet. Drivers must observe strict rules regarding fire safety.

MAXIMUM DRIVING TIME — No one may drive for more than 10 hours (aggregate time) in any period of 24 consecutive hours, excluding rest and meal stops. Once a driver reaches the 10-hour limit, he or she must be afforded 8 consecutive hours' rest before being allowed to drive again.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

➡ TRANSPORTATION CODE (MOTOR TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS)

STATUTORY CITATION: Tex. Trans. Code §§ 647.001 - 647.019

GENERAL SUMMARY: Chapter 647 of the Transportation Code regulates the transportation of migrant agricultural workers in the state.

SPECIFIC TERMS AND CONDITIONS

APPLICABILITY — The provisions summarized below apply to individuals, firms, associations and other entities that transport 5 or more migrant agricultural workers at any one time a total distance of more than 50 miles within the state, in any motor vehicle other than a passenger car or station wagon. The law does not apply to any migrant worker transporting only the worker or the worker's immediate family, or to private businesses or public agencies that offer transportation to the population at large.

DRIVERS — No one may drive a motor vehicle used to transport migrant agricultural workers under the conditions outlined above, unless the driver meets specified minimum qualifications. Drivers must be at least 18 years of age, have at least one year's driving experience, be familiar with state driving rules, and have a valid permit authorizing operation of the vehicle. Each driver must be examined by a licensed physician and have a current doctor's certificate indicating that the driver is qualified under the standards prescribed in the statute.

OPERATING RULES — Migrant worker motor vehicles must be driven in accordance with specific rules spelled out in the statute, as well as with applicable state and local laws and ordinances. Driving while fatigued or operating vehicles at speeds in excess of legal limits is prohibited. Drivers must assure that vehicle equipment and accessories are in good working order and that passengers and freight are safely loaded. The passenger capacity of any such vehicle may not be exceeded, and passengers must be adequately protected against the elements. Migrant workers may not be transported in closed vehicles without windows or other means of ventilation.

HOURS OF SERVICE — No driver may operate a migrant transportation vehicle for a cumulative period of more than 10 hours (excluding meal and rest stops) in any interval of 24 consecutive hours, unless the driver has rested at least 8 consecutive hours immediately following the 10-hour driving period.

MEAL AND REST STOPS — There must be a meal stop of at least 30 minutes' duration no less frequently than once every 6 hours. Passengers must be provided at least one rest stop between meal stops.

VEHICLE EQUIPMENT — No one engaged in transporting migrant workers may operate any vehicle for that purpose unless it is equipped as prescribed in the statute. The law's qualitative and numerical standards cover lighting equipment, brakes, coupling devices, tires and heaters, and also regulate such items as floor and sidewall construction, seats, exits, handrails and other aspects of passenger compartment safety. Each vehicle must be equipped with a properly mounted fire extinguisher.

INSPECTION AND MAINTENANCE — Each carrier of migrant farmworkers must systematically inspect and maintain all motor vehicles under its control, to ensure they are in safe and proper operating condition.

SPECIAL NOTES OR ADVISORIES

PRESUMPTION OF COMPLIANCE — A person who transports migrant agricultural workers and presents evidence of compliance with the federal migrant worker transportation standards enforced by the U.S. Department of Transportation (see entry, U.S. — Transportation — Farmworker Transportation Safety) is deemed to have complied with the state provisions described above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced by state and local law enforcement agencies, through prosecution in the criminal courts. Owners or operators of migrant transportation vehicles that are covered by these provisions and found out of compliance with the applicable standards are subject to criminal fines ranging from \$5 to \$50. Likewise, anyone who drives a vehicle transporting migrant workers and does so without proper licensing and medical certification, or contrary to any other provision of this law, may also be cited and prosecuted.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

MIGRANT LABOR LAW (TRANSPORTATION OF MIGRANT WORKERS)

STATUTORY CITATION: Wis. Stat. §§ 103.91(8)(f) and 103.917

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.05(8)(c)

GENERAL SUMMARY: Wisconsin's migrant labor law includes provisions related to the transportation of migrant workers by farm labor contractors and agricultural employers.

SPECIFIC TERMS AND CONDITIONS

TRANSPORTATION SAFETY — Any transportation provided by an employer to a migrant worker between the worker's places of residence must be safe and adequate. Likewise, for each vehicle used to transport individuals or property in connection with contracting activities, a migrant labor contractor is required to provide a mechanical inspection report to the state.

INSURANCE — Among other duties imposed on migrant labor contractors, every contractor or contractor's agent who owns or operates any vehicle for the transportation of persons or property in connection with contracting activities must maintain liability insurance protecting the contractor or agent against damages arising from the ownership or operation of the vehicle. The liability limits must be no less than \$100,000 for each seat in the vehicle, up to a maximum coverage of \$5,000,000. If the contractor furnishes worker transportation only as the agent of an employer, the employer is responsible for obtaining the required liability insurance.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). The Department is authorized to investigate reported or suspected violations of the migrant labor transportation provisions, and to take legal action against any contractor or employer who fails or neglects to comply.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

U.S.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: Any farming establishment seeking certification to employ temporary foreign agricultural labor under the so-called "H-2A" program is required to circulate a formal job offer for U.S. workers, starting no sooner than 75 days and no later than 60 calendar days before the work is expected to begin. If the employer's H-2A application is later approved, the U.S. and foreign workers hired by the employer pursuant to the job offer must receive a written work contract specifying the benefits and conditions of employment. Both the job offer and the work contract must contain certain minimum standards and guarantees, including requirements related to worker transportation.

SPECIFIC TERMS AND CONDITIONS

TRANSPORTATION TO THE PLACE OF EMPLOYMENT — Each foreign or domestic worker who completes 50 percent of the work contract period is entitled to payment by the employer for costs incurred by the worker for transportation and meals between the place from which the worker has come to work for the employer, and the place of employment. Transportation and meal costs must be advanced to the worker prior to the trip whenever it is common practice for non-users of foreign labor in the same occupation and the same area to do so.

DAILY TRANSPORTATION TO THE WORKSITE — During the course of the contract, the employer must provide transportation between the worker's living quarters and the worksite, without cost, but only to the extent that the worker is unable to return to his or her own home within the same day.

TRANSPORTATION BACK TO THE POINT OF ORIGIN — Provided that the worker completes the contract period, the employer is obligated to furnish or pay for the worker's transportation and daily subsistence back to the place of origin or to the next place of employment, if such travel costs are not covered by the next employer.

TRANSPORTATION STANDARDS — Employer-provided transportation must comply with all applicable federal, state and local laws or regulations. At a minimum, the transportation provided to H-2A workers must meet the driver and vehicle safety and insurance standards required under the Migrant and Seasonal Agricultural Worker Protection Act, summarized in the previous entry.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the required work contract between H-2A employers and their foreign and U.S. workers, including the obligation to provide employee transportation. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the associated job offers comply with statutory requirements, including the provision of transportation to the workers.

Alaska

STATE LABOR LAWS (RETURN TRANSPORTATION)

STATUTORY CITATION: Alaska Stat. §§ 23.10.375 – 23.10.400

RELATED REGULATIONS: Alaska Admin. Code Title 8, Ch. 20

GENERAL SUMMARY: State laws governing employment practices in Alaska include a provision requiring employers to furnish return transportation for certain employees (including agricultural workers) to their place of recruitment upon termination of employment.

SPECIFIC TERMS AND CONDITIONS: An employer who in any way provides or agrees to provide transportation to a person from the place of hire to a point inside or outside the state for purposes of employment must provide the worker with return transportation to the place of hire (or to a mutually agreeable destination) when the job ends or the employment is terminated for good cause. Request for return transportation must be made within 45 days after termination of employment, and return transportation must be provided or financed within 10 days after termination or whenever transportation is available, which ever occurs first.

If a worker voluntarily terminates for just cause, or is terminated for any cause during the term of the employee's contract of employment, and if immediate transportation is unavailable upon the termination, the employee is entitled to subsistence (currently \$100 per day). Subsistence pay may not continue longer than 10 days after termination, or until transportation becomes available, whichever occurs first.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842). The Wage and Hour Administration may investigate complaints by employees claiming a right to return transportation and may take civil court action on an employee's behalf to secure such transportation. An employer found in violation of these provisions may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

STATE LABOR LAWS (AGRICULTURAL OPERATIONS)

STATUTORY CITATION: Ariz. Rev. Stat. § 23-286.01

GENERAL SUMMARY: Article 5 of Arizona's labor statutes includes a provision limiting the hours of drivers transporting agricultural commodities or farm supplies.

SPECIFIC TERMS AND CONDITIONS: In general, a person transporting agricultural commodities or farm supplies may not drive more than 16 hours straight, and must remain off-duty for at least 8 consecutive hours before starting another shift. Likewise, no such driver may drive more than 112 hours in any consecutive 7-day period.

Exception — During a period of not more than 28 consecutive days (or two periods totaling 28 days in a calendar year), a driver transporting "special situation" farm products from the field to cooling facilities may drive for not more than 12 hours during any 16-hour workday.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Arizona Department of Public Safety, Phoenix, Arizona 85009 (602-223-2522). The director of the Department of Public Safety has authority to waive the maximum on-duty time limits applicable to any 7-day period if an emergency exists due to inclement weather, natural disaster or an adverse economic condition that threatens to disrupt the orderly movement of farm products during harvest for the duration of the emergency. The term "emergency" does not include a strike or labor dispute.

Florida

→ DRIVER LICENSE LAWS (NON-RESIDENTS)

STATUTORY CITATION: Fla. Stat. §§ 322.031 and 316.003(37)

GENERAL SUMMARY: Chapter 322 of the state statutes regulates the licensing of drivers in Florida. With few exceptions, non-residents who accept employment or engage in any trade, profession or occupation in the state, or who enroll their children in the public schools in Florida, must obtain a Florida driver's license within 30 days after the commencement of such employment or education.

PROVISIONS APPLICABLE TO AGRICULTURE: Migrant and seasonal farmworkers (defined as individuals employed in the planting, cultivation or harvest of agricultural crops) who are not legal residents of Florida and who have a valid driver's license issued by another state are not required to obtain a Florida license.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300). The Highway Patrol has authority to enforce all state traffic laws on all streets and highways throughout the state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - County sheriffs' offices and municipal police departments.

→ MOTOR VEHICLE LICENSE LAWS (NON-RESIDENTS)

STATUTORY CITATION: Fla. Stat. §§ 320.38 and 316.003(37)

GENERAL SUMMARY: Chapter 320 of the state statutes prescribes the conditions under which motor vehicles operating on the streets and highways of Florida must be licensed or registered. In general, non-residents of the state who accept employment or engage in any trade, profession or occupation in Florida must, within 10 days after commencing such employment, register their motor vehicles in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Migrant and seasonal farmworkers (defined as individuals employed in the planting, cultivation or harvest of agricultural crops) who are not legal residents of Florida and whose vehicles are duly registered or licensed under the laws of some other state are not required to register their motor vehicles in Florida.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300). The Highway Patrol has authority to enforce all state traffic laws on all streets and highways throughout the state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - County sheriffs' offices and municipal police departments.

Indiana

SCHOOL TRANSPORTATION LAWS (USE OF SCHOOL BUSES)

STATUTORY CITATION: Ind. Code § 20-27-9-10

GENERAL SUMMARY: Article 27, Chapter 9 of the state education laws includes an authorization for the use of public school buses for the transportation of agricultural workers under certain prescribed conditions.

SPECIFIC TERMS AND CONDITIONS: The governing body of a school corporation may permit the use of its school buses for the transportation of agricultural workers engaged in cultivating, producing or harvesting crops. Any bus used for that purpose may transport only school children, enrolled college and university students, a supervisor, and the bus driver. When used to transport farmworkers, a bus must display a sign in 4-inch letters or larger, reading "Agricultural Workers," at the front and rear of the vehicle.

Each school bus used to transport agricultural workers must meet specified insurance and safety requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - These provisions are enforced by local school corporations, and by state and local law enforcement agencies.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

→ STATE LABOR LAWS (TRANSPORTATION FOR CORN DETASSELERS)

STATUTORY CITATION: Minn. Stat. § 181.83

GENERAL SUMMARY: The state labor statutes include certain protections for workers employed to detassel corn in Minnesota, including a requirement for employer-paid transportation under some circumstances.

SPECIFIC TERMS AND CONDITIONS: Whenever an employer discharges a worker employed to detassel corn, or such a worker is injured or becomes ill on the job, the employer must provide the worker with transportation from the workplace to the location where the worker was picked up that day. Furthermore, the employer is required to compensate the worker, at the individual's regular rate of pay, for the elapsed time between termination, injury or onset of the illness, and arrival at the pick-up point.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Because this section of the state labor laws does not include enforcement or penalty provisions, the only recourse for corn detasselers denied transportation and related pay under this provision is action against the employer in civil court, using a private attorney or public legal service provider. However, there appears to be no statutory right to sue under this law.

Nebraska

■ MOTOR VEHICLE OPERATOR'S LICENSE ACT (TEMPORARY IMMUNITY FOR NON-RESIDENTS)

STATUTORY CITATION: Neb. Rev. Stat. § 60-488

GENERAL SUMMARY: The Motor Vehicle Operator's License Act prohibits the operation of any motor vehicle on the streets, alleys and public highways of Nebraska unless the driver has obtained a license for that purpose from the state. The Act, however, grants temporary immunity from this requirement for certain non-residents, including agricultural workers.

SPECIFIC TERMS AND CONDITIONS: An individual who is a non-resident of Nebraska is entitled to 30 days' immunity from the motor vehicle operator's licensing requirement, provided the individual is duly licensed to drive in his or her home state. Furthermore, a person who is certified by the state labor department as being engaged in temporary agricultural employment in Nebraska for a period of no more than 60 days may be granted an additional 30 days of immunity if the worker's home state extends similar immunity to residents of Nebraska while temporarily engaged in agricultural employment in that other state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). This agency is authorized to provide the certification of temporary agricultural employment necessary for extended immunity of non-resident farmworkers from the drivers' license requirement.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Driver Licensing Services Division, Nebraska Department of Motor Vehicles, Lincoln, Nebraska 68509 (402-471-3861). This agency is responsible for the testing and licensing of drivers in the state.

Nevada

MOTOR CARRIER REGULATION AND LICENSING LAWS (PERMIT FOR EMPLOYEE TRANSPORTATION)

STATUTORY CITATION: Nev. Rev. Stat. § 706.749

GENERAL SUMMARY: The state motor carrier laws generally exempt employers transporting workers between their homes and the place of employment from the regulatory provisions applicable to common carriers, but impose certain permit requirements and fee limitations on such transportation providers in lieu thereof.

SPECIFIC TERMS AND CONDITIONS

PERMITS — Any employer (implicitly including a farm operator or farm labor contractor) who transports workers between their job site and their homes or central parking areas must obtain an annual permit to do so from the state. The permit application must indicate the employer's name, the places where workers will be picked up and discharged, the location of the workplace or job sites, identification of the vehicle or vehicles to be used, and the amount of any charges to be made for transportation service. The permit requires payment of an annual \$10 fee for each vehicle regularly used to transport workers.

CHARGES — Any fees or charges for use of the service by workers may not exceed an amount required to amortize the cost of the vehicle and defray the cost of operating it.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Van Pool Registrar, Nevada Transportation Authority, Reno, Nevada 89502 (775-688-2800). The Authority is responsible, in large part, for administration and enforcement of the state motor carrier laws, including the issuance of permits to employers transporting workers to and from the workplace. Any violation of the permit requirement or the limitation on transportation charges may be reported to this agency.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

FARM LABOR CREW LEADER LAW (WORKER TRANSPORTATION)

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8A-7 - 34:8A-17

GENERAL SUMMARY: Chapter 8A of the state labor laws imposes certain restrictions on the activities of farm labor crew leaders in New Jersey, including the furnishing of worker transportation.

SPECIFIC TERMS AND CONDITIONS

AUTHORIZATION TO TRANSPORT — As a condition for issuance of a crew leader certificate of registration, any applicant who transports migrant or seasonal farmworkers must provide the state administering agency with satisfactory proof of compliance with state motor vehicle requirements applicable to such transportation. At the agency's discretion, a registration certificate inscribed with the words "Not Authorized To Transport" may be granted to an otherwise qualified crew leader who submits a signed application affirming that he or she will not be furnishing farmworkers with transportation.

DISCLOSURE — At the time of recruitment, the crew leader must disclose to each farmworker recruited the transportation services, if any, the crew leader intends to provide in connection with the worker's employment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A crew leader may not discharge, discipline or discriminate in any manner against a migrant or seasonal farmworker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded under state or federal law. The anti-retaliation protection is enforceable through private civil action.

 $PRIMARY\ ENFORCEMENT\ AGENCY\ -\ Agricultural\ Compliance\ Section,\ Division\ of\ Wage\ and\ Hour\ Compliance,\ New\ Jersey\ Department\ of\ Labor\ and\ Workforce\ Development,\ Trenton,\ New\ Jersey\ 08625\ (609-984-3004).\ The\ Department\ is\ charged\ with$ issuing farm labor crew leader registration certificates to eligible applicants and is authorized to investigate any complaint regarding a violation of the crew leader law. In addition to the revocation or suspension of the registration certificate, a crew leader who violates any provision of the law or its associated regulations is liable to both criminal prosecution and civil money

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*PRIVATE CIVIL ACTION — Any seasonal farmworker aggrieved by an apparent violation of these provisions may take civil court action against the crew leader, using a private attorney or public legal service provider.

U.S.

→ FAIR LABOR STANDARDS ACT OF 1938

STATUTORY CITATION: 29 USC §§ 201 - 219

RELATED REGULATIONS: 29 CFR Parts 516, 531, and 780

GENERAL SUMMARY: In addition to child labor restrictions, overtime pay requirements, and other workplace protections, the Fair Labor Standards Act establishes a nationwide minimum wage, currently \$7.25 per hour. With some exceptions, employers must pay the federal minimum wage to any of their employees who, in any workweek, are engaged in commerce or in the production of goods for commerce.

Employers subject to the minimum wage provision must also maintain and preserve records regarding the identity of their employees, pay rates, hours worked, earnings, deductions, and dates of payment.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — A farm operator or other agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) is required to pay no less than the federal minimum wage to each employee during the current year, unless the employee is statutorily excluded from coverage. The federal minimum wage, applicable in all 50 states and in Puerto Rico, is currently \$7.25 per hour.

COVERAGE EXCLUSIONS — The following categories of farm employees are not covered by the minimum wage provision:

- Any parent, spouse, child or other immediate family member of the employer.
- (2) Any person who is employed as a hand harvest worker, is paid on a piece-rate basis in an operation customarily paid by piece rate in the region of employment, commutes daily from his or her permanent residence to the farm where employed, and was employed in agriculture less than 13 weeks the preceding year.
- (3) Any person 16 years of age or under who is employed as a hand-harvest worker, is paid on a piece-rate basis in an operation generally recognized as a piece-rate job in the local area, is employed on the same farm as his or her parent (or person standing in the place of the parent), and is paid the same piece rate as employees over age 16 on the same farm.
- (4) Any person principally engaged in the range production of livestock.

VALUATION OF NON-CASH COMPENSATION — Agricultural employers who are required to pay the federal minimum wage may generally count as part of an employee's wages the reasonable cost of furnishing the worker with food, lodging or other facilities, as long as the employer customarily provides such benefits to all other employees. The U.S. Department of Labor has determined that "reasonable cost" does not include a profit to the employer or the employer's agents, and that the imputed value may not exceed the actual cost to the employer of the food, lodging or other facilities furnished the employee. Any facilities provided employees primarily for the benefit or convenience of the employer may not be counted as wages. Records documenting the cost of furnishing such benefits in lieu of cash wages must be maintained and preserved by the employer.

RECORDKEEPING REQUIREMENTS — Agricultural employers who reasonably anticipate using more than the requisite 500 worker-days of farm labor in any calendar quarter of the current year must keep a record of each employee's name, address, sex and occupation, as well as the number of worker-days of labor employed per week or per month. Those farm employers who actually used more than 500 worker-days of farm labor in any quarter of the preceding year must follow these same recordkeeping requirements for the entire current year, but must also record for each worker the date the employee's workweek begins, the wage rate involved, the number of hours worked per day or per week, total earnings per day or per week, deductions, net wages paid, and dates of payment. An employer who makes deductions from wages for board, lodging or other facilities furnished to the worker by the employer or the employer's designee must maintain and preserve records substantiating the cost of furnishing each type of service or facility.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — The question of who, if anyone, is liable for payment of the minimum wage in cases where workers are represented, supplied, or supervised by a crew leader or labor contractor depends substantially on the balance of control exercised by the crew leader and the farmer over the workers and the work performed. A crew leader who merely assembles a crew of farmworkers and brings them to the farm to be supervised and paid directly by the farm operator, and who does the same work and receives the same pay as crew members, is an employee of the farmer. In such circumstances, it is the farmer's worker-day count — including the labor of the both the crew leader and crew members — that determines whether or not the minimum wage applies; if so, it is the farmer and not the crew leader who is responsible for paying it.

On the other hand, where the farmer only establishes the general manner for the work to be done, and where the contractor or crew leader makes day-to-day decisions regarding the work and has the opportunity for profit through supervision of the crew and its output (especially through the authority to hire, fire and direct the workers, set pay rates, and resolve complaints), the contractor or crew leader is the employer of the workers. To the extent that the contractor or crew leader employs more than the required worker-day volume of labor in a calendar quarter, the contractor is obligated to pay the federal minimum wage.

Whether or not the crew leader is found to be a bona fide independent contractor, however, the workers are considered jointly employed by the crew leader and the farmer who is using their labor if the farmer has the power to direct, control or supervise the work or to determine pay rates or the method of payment. Both the farmer and the crew leader are equally responsible for compliance with the Fair Labor Standards Act, including payment of the minimum wage (if applicable) and recordkeeping.

RETALIATION — An employer may not discharge or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). The Wage and Hour Division is authorized to investigate complaints of unpaid or sub-minimum wages and, where violations are found to have occurred, to impose civil penalties. In exercising these functions, the agency has authority to enter workplaces, interview employers and employees, and inspect and copy employment records.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, the Act also permits employees claiming unpaid minimum wages to file suit in federal court for back pay and related damages, using a private attorney or public legal service provider. An employer found by the court to have violated the Act's minimum wage requirements is liable to the worker in the amount of the unpaid wages and an additional equal amount as liquidated damages. The court may also award reasonable attorney's fees and court costs.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: To protect the well-being of foreign agricultural workers admitted into the U.S. under the so-called "H-2A" program authorized by the Immigration and Nationality Act, and to assure that the importation of temporary labor does not erode job opportunities and working conditions for domestic farmworkers, the U.S. Department of Labor has adopted special wage standards applicable to agricultural establishments that employ U.S. or non-U.S. workers to perform services pursuant to a formal H-2A job offer.

SPECIFIC TERMS AND CONDITIONS

HOURLY WORKERS — Each H-2A worker, and any U.S. worker engaged in comparable employment, who is paid by the hour must be compensated at a rate not less than (1) the federal minimum wage, (2) the state minimum wage, (3) the prevailing hourly wage rate, or (4) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, whichever of the four figures is highest. The adverse effect wage rate is an annually updated hourly wage floor intended to discourage domestic agricultural wage deflation which could otherwise result from the use of foreign labor. As computed for all states except Alaska, the following are the AEWRs established for calendar year 2017:

Alabama—\$10.62, Arizona—\$10.95, Arkansas—\$10.38, California—\$12.57, Colorado—\$11.00, Connecticut—\$12.38, Delaware—\$ 12.19, Florida—\$11.12, Georgia—\$10.62, Hawaii—\$13.14, Idaho—\$11.66, Illinois—\$13.01, Indiana—\$13.01, Iowa—\$13.12, Kansas—\$13.79, Kentucky—\$10.92, Louisiana—\$10.38, Maine—\$12.38, Maryland—\$12.19, Massachusetts—\$12.38, Michigan—\$12.75, Mississippi—\$10.38, Missouri—\$13.12, Montana—\$11.66, Nebraska—\$13.79, Nevada—\$11.00, New Hampshire—\$12.38, New Jersey—\$12.19, New Mexico—\$10.95, New York—\$12.38, North Carolina—\$11.27, North Dakota—\$13.79, Ohio—\$13.01, Oklahoma—\$11.59, Oregon—\$13.38, Pennsylvania—\$12.19, Rhode Island—\$12.38, South Carolina—\$10.62, South—Dakota \$13.79, Tennessee—\$10.92, Texas—\$11.59, Utah—\$11.00, Vermont—\$12.38, Virginia—\$11.27, Washington—\$13.38, West Virginia—\$10.92, Wisconsin—\$12.75, Wyoming—\$11.66.

PIECE-RATE WORKERS — Workers who are paid on a piece-rate basis and whose piecework earnings at the end of the pay period are below what they would have been had the workers been paid at the appropriate hourly rate for each hour worked, must be given supplemental pay at that time to make up the difference. In no instance may an H-2A employer pay a piece rate for a given crop operation that is less than the prevailing piece rate in the local area for the same operation. Minimum productivity standards used by employers as a condition for job retention by piece-rate workers are subject to certain regulatory restrictions.

GUARANTEED PAID WORKDAYS — In general, each U.S. and foreign worker hired under an H-2A work contract is guaranteed employment for at least 3/4 of the workdays in all periods during which the contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay the worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays. In computing the amount due under the guarantee for a worker paid by the hour, the employer must use the worker's regular hourly pay rate; in the case of a pieceworker, the guarantee is figured using the worker's average hourly piece-rate earnings or the adverse effect wage rate, whichever is higher.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the wage standards and all other elements in the required work contract between H-2A employers and their foreign and U.S. workers. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the wage rate offered to the workers and other aspects of the associated job offers comply with statutory requirements.

Alaska

○ ALASKA WAGE AND HOUR ACT (MINIMUM WAGE)

STATUTORY CITATION: Alaska Stat. §§ 23.10.050 – 23.10.150

GENERAL SUMMARY: With certain exceptions, the Alaska Wage and Hour Act prescribes a state minimum wage equal to \$9.80 an hour effective January 1, 2017, with the rate adjusted for inflation on September 30 each year and applied to the calendar year that follows. The state minimum wage applies to covered employees whether compensation is paid by the hour, on a piecework basis, or otherwise.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Wage and Hour Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA MINIMUM WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-362 - 23-365

GENERAL SUMMARY: Under a measure approved by the voters of Arizona in 2006, most employers in the state are required to pay no less than the state minimum wage for every hour of employment. A similar ballot initiative approved by voters in November 2016 raises the minimum wage in four steps:

Effective January 1, 2017: \$10.00 per hour Effective January 1, 2018: \$10.50 per hour Effective January 1, 2019: \$11.00 per hour Effective January 1, 2020: \$12.00 per hour

On January 1 each year beginning in 2021, the existing minimum wage will be adjusted to account for inflation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Arizona minimum wage applies to agricultural and non-agricultural employees alike.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). An employee who has not received the state minimum wage may file a wage claim with the state labor department. A wage claim form may be downloaded from the agency's website, at http://test-az-ica.pantheonsite.io/forms/labor3303.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover an amount equal to *three times* the amount of the unpaid wages, plus interest. A civil suit to recover unpaid wages generally must be commenced no later than 2 years after the violation last occurred.

Arkansas

MINIMUM WAGE ACT OF THE STATE OF ARKANSAS

STATUTORY CITATION: Ark. Code §§ 11-4-201 - 11-4-220

RELATED REGULATIONS: Ark. Code R. 010.14-001 - 010.14-113

GENERAL SUMMARY: The state minimum wage law generally requires employers with 4 or more employees in any work week to pay no less than \$8.50 an hour for every hour of work that week, effective January 1, 2017.

Among other exceptions, an employer who is otherwise obligated to pay the state minimum wage may apply to the state labor department for a certificate authorizing the employer to pay no less than 85 percent of the minimum wage to full-time students, for not more than 20 hours a week when school is in session and not more than 40 hours a week when school is not in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law applies only to large agricultural establishments, excluding from coverage the following categories of employees:

- (1) Workers employed by an agricultural establishment which did not use more than 500 worker-days of farm labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, commute daily from their permanent residence to the farm where they work, and have been employed in agriculture less than 13 weeks during the preceding calendar year.
- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as employees over the age of 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). Employees who believe that they have not received the wages they are entitled to under the state minimum wage law may file a claim with the Department, which is authorized to investigate and take administrative or court action against the employer to collect the unpaid wages if a violation is found to have occurred. The Department also has authority to assess civil money penalties of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the Department of Labor, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, court costs and attorney's fees, and the worker may be entitled to an additional amount as liquidated damages.

California

WAGE AND HOUR LAWS (MINIMUM WAGE)

STATUTORY CITATION: Cal. Lab. Code §§ 1171-1206

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11130 & 11140

GENERAL SUMMARY: The California state minimum wage is prescribed by statute through the year 2023 and applies to most workers in most industries, depending only on the size of each employer's workforce.

Employers with 25 Employees or Fewer — Workers employed by an establishment with no more than 25 employees must be paid no less than the following during the indicated time period:

January 1, 2017—December 31, 2017: \$10.00 per hour January 1, 2018—December 31, 2018: \$10.50 per hour January 1, 2019—December 31, 2019: \$11.00 per hour January 1, 2020—December 31, 2020: \$12.00 per hour January 1, 2021—December 31, 2021: \$13.00 per hour January 1, 2022—December 31, 2022: \$14.00 per hour January 1, 2023—December 31, 2023: \$15.00 per hour

Employers with 26 Employees or More — Workers employed by an establishment with more than 25 employees must be paid no less than the following during the indicated time period:

January 1, 2017—December 31, 2017: \$10.50 per hour January 1, 2018—December 31, 2018: \$11.00 per hour January 1, 2019—December 31, 2019: \$12.00 per hour January 1, 2020—December 31, 2020: \$13.00 per hour January 1, 2021—December 31, 2021: \$14.00 per hour January 1, 2022—December 31, 2023: \$15.00 per hour

Beginning in 2023, on or before August 1 each year and subject to certain economic conditions, the state finance director will increase the minimum wage by the *lesser* of (a) 3.5 percent, or (b) the rate of change in the consumer price index for urban wage earners and clerical workers, but in no case will the existing rate be lowered. The adjusted minimum wage will become effective the following January 1.

The state industrial welfare commission has authority to investigate wages, hours and working conditions in any occupation, trade or industry, and if the wages paid are inadequate to maintain a proper living standard, the commission must appoint a wage board, composed of an equal number of representatives of employers and employees, to consider the commission's findings and other information, and to recommend an appropriate minimum wage higher than the wage floor set by the legislature.

PROVISIONS APPLICABLE TO AGRICULTURE: The following minimum wage provisions applicable to agricultural employment have been adopted by the industrial welfare commission:

PLANTING, CULTIVATION, AND HARVEST OPERATIONS — The wage order regulating pay in planting, cultivation and harvest operations currently specifies an hourly rate that is below the statutory minimum set by the legislature. Workers in these occupations, therefore, are generally entitled to receive at least the minimum rate specified above for each hour of work.

ON-FARM PREPARATION OF CROPS FOR MARKET — The wage order regulating pay for persons engaged in on-farm preparation of crops for market currently specifies an hourly rate that is below the statutory minimum set by the legislature. Workers in these occupations, therefore, are generally entitled to receive at least the minimum rate specified above for each hour of work.

MEALS AND LODGING — Provided there is a voluntary written agreement for such an arrangement between the employer and the worker, the cost of adequate, well-balanced meals and decent, sanitary housing supplied by an agricultural employer and actually utilized by an agricultural employee may be credited against the minimum wage. However, the credit for each meal may not exceed \$2.45 for breakfast, \$3.35 for lunch, or \$4.50 for dinner, and the housing credit is limited to \$31.75 per week for a room occupied alone, \$26.20 a week for a shared room, and 2/3 of the ordinary rental value for an apartment. The maximum credit for an apartment is \$563.90 per month where a couple are both employed by the employer, and \$381.20 for all others.

SPECIAL NOTES OR ADVISORIES

PIECE-RATE WORKERS — In accordance with a provision in the state wage payment laws, employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The required pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). The Division is authorized to investigate the wages being paid to any employee in the state and to enforce compliance with the wage orders adopted under the wage and hour laws. With the consent of the worker or workers affected, the agency may commence civil action to recover unpaid minimum wages. The Division is responsible for supervision of the payment of unpaid minimum wages owing to any employee under these provisions. Violation of a wage order by an employer is a misdemeanor, punishable by a fine, imprisonment or both. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who receives less than the legal minimum wage may file a private suit to recover the unpaid balance of the full amount, together with costs of the lawsuit, but if the worker accepts payment of any sums found to be due on demand of the Division, such acceptance constitutes a waiver on the worker's part of his or her right to sue.

Colorado

MINIMUM WAGE LAW

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-6-101 - 8-6-119; Colo. Const. Art. XVIII, § 15

RELATED REGULATIONS: 7 Code Colo. Regs. 1103-1 (Colorado Minimum Wage Order No. 32)

GENERAL SUMMARY: A ballot initiative approved by Colorado voters in November 2016 raises the existing state minimum wage in four steps between 2017 and 2020, as follows:

Effective January 1, 2017: \$9.30 per hour Effective January 1, 2018: \$10.20 per hour Effective January 1, 2019: \$11.10 per hour Effective January 1, 2020: \$12.00 per hour

Each year thereafter, the existing minimum wage will be adjusted to account for inflation.

Article XVIII, Section 15, of the state constitution extends the applicability of the state minimum wage to any Colorado employee who is covered by the minimum wage provisions of the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage).

PROVISIONS APPLICABLE TO AGRICULTURE: Under the constitutional provision referred to above, only those farmworkers in the state who work in agricultural establishments that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are covered. However, since the federal minimum wage is currently lower than Colorado's current minimum wage, those workers are entitled to receive at least the minimum rate specified above for each hour of work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). Any worker who is entitled to the state minimum wage and who has not been paid accordingly may file a complaint with the Division, which is required to investigate and take action to enforce payment if the charge is determined valid.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative wage claim, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, plus court costs and attorney's fees.

Connecticut

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-58 - 31-69b

RELATED REGULATIONS: Conn. Agencies Regs. §§ 31-60-1 - 31-60-16

GENERAL SUMMARY: The Connecticut Minimum Wage Act makes it unlawful for any employer subject to the Act to pay less than the state minimum fair wage, which is \$10.10 per hour beginning January 1, 2017. The law provides that whenever the federal minimum wage is increased, the state minimum fair wage must be increased to a level equal to one-half of one percent above the federal floor. The Act also authorizes special rates for minors and certain other special categories of workers.

PROVISIONS APPLICABLE TO AGRICULTURE

ADULT EMPLOYEES — To the same extent as most other classes of workers, adults employed in agricultural labor are entitled to receive at least \$10.10 for every hour of work.

MINORS — Persons between the ages of 14 and 18 employed in agriculture must be paid (1) no less than 85 percent of the state minimum wage, or \$8.59 per hour, when working for an agricultural employer who employed 8 or more workers at any one time during the preceding calendar year, or (2) no less than 70 percent of the state minimum wage, or \$7.07 an hour, when working for an employer who did not employ 8 or more workers at any one time in the preceding year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who believes that he or she has been discharged, disciplined, penalized or otherwise discriminated against by any person in violation of this section may file a complaint with the state labor department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). Any worker who receives less than the applicable minimum wage may file a complaint with the Department, which is authorized to take assignment of the claim and bring legal action against the employer to collect the unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the state labor department, workers may recover unpaid minimum wages through civil court action, utilizing private legal counsel or a public legal service provider.

Delaware

MINIMUM WAGE ACT OF THE STATE

STATUTORY CITATION: Del. Code Title 19, §§ 901-914

GENERAL SUMMARY: The Minimum Wage Act establishes a state minimum wage, payable to most categories of employees in Delaware. The current state minimum wage is \$8.25 an hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Delaware's minimum wage law does not apply to any individual employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

→ FLORIDA MINIMUM WAGE ACT

STATUTORY CITATION: Fla. Const. Art. X, § 24; Fla. Stat. § 448.110

GENERAL SUMMARY: In 2004, the Florida constitution was amended via public initiative to establish a state minimum wage, sufficient to provide a decent and healthy life for all working Floridians and their families. The amendment authorized the state administering agency to adjust the initial minimum wage rate for inflation on September 30 each year, applicable to the subsequent calendar year.

Effective January 1, 2017, Florida's minimum wage is \$8.10 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the Florida minimum wage applies only to workers covered by the minimum wage provisions of the federal Fair Labor Standards Act (see entry, U.S.—Wages & Hours—Minimum Wage), a farmworker's right to receive the state minimum wage applies only if he or she is employed by a farm establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discriminate or retaliate in any way against a worker for filing a complaint under these provisions, or for informing another worker of his or her rights under the Florida Minimum Wage Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.* Workers who believe they have been denied their right to receive the state minimum wage must file suit in civil court to enforce compliance, using a private attorney or public legal service provider. Prior to filing suit, however, a worker must notify the employer involved of the intent to sue and identify the minimum wage rate, the dates and hours of work, and the total amount of unpaid wages claimed. A worker who prevails in court is entitled to collect the full amount of unpaid wages, plus an equal amount in damages, plus court costs and attorney's fees. Likewise, an employer found in willful violation is subject to a fine payable to the state in the amount of \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Bureau of Labor Market Statistics, Florida Department of Economic Opportunity, Tallahassee, Florida 32399 (850-245-7205). This agency is responsible for annual adjustment of the state minimum wage rate.

Georgia

O GEORGIA MINIMUM WAGE LAW

STATUTORY CITATION: Ga. Code §§ 34-4-1 - 34-4-6

GENERAL SUMMARY: The Georgia Minimum Wage Law (1) establishes a minimum wage of \$5.15 an hour, applicable to most classes of employment in the state and generally affecting employers with more than 5 employees or sales exceeding \$40,000 per year, (2) requires subject employers to keep certain payroll records, and (3) gives covered employees a private cause of action for recovery of unpaid wages, an equal amount in liquidated damages, and attorney's fees and court costs.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law **does not apply** to any employer who is a farm owner, sharecropper or land renter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Payment of the state minimum wage may be enforced only through civil action in state court.

Hawaii

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-1 - 387-15

GENERAL SUMMARY: Among its other purposes, Hawaii's wage and hour law establishes a state minimum wage, along with recordkeeping and posting requirements which every employer subject to the law is obligated to observe. The state minimum wage is currently \$9.25 an hour, but is scheduled to rise to \$10.10 beginning January 1, 2018.

The state minimum wage generally applies only to employees who are not covered by the minimum wage provisions of the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage). But in any workweek when the state minimum is higher than the federal rate, workers who would otherwise be excluded by this provision are entitled to the state minimum wage that week also. Since the current \$7.25 federal minimum wage is less than Hawaii's current rate of \$9.25, this provision effectively extends the state minimum wage to otherwise covered workers here regardless of their coverage under FLSA.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE -

Agriculture Generally — During any workweek in which the employer has at least 20 employees, a worker engaged in any agricultural service other than coffee harvesting is entitled to no less than the state minimum wage.

Coffee Harvesting — The state wage and hour law, and thus the minimum wage, *does not apply* to workers employed in any workweek in the harvesting of coffee.

RECORDKEEPING — Every employer who has any employee covered by the wage and hour law must record and safeguard certain data for each covered worker, including name, address, occupation, the amount of wages paid each pay period, the hours worked each day and each week, and the pay rate and basis thereof.

POSTING — Every subject employer must keep posted, in conspicuous locations at each workplace, prescribed notices regarding the provisions and coverage of the wage and hour law, to inform workers of their rights and entitlements under the statute.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). Agents of the Department are authorized to enter any establishment or place of employment, to inspect and copy payroll and related employer records, and to question any employee in an investigation of a wage complaint or any other suspected violation of the wage and hour law. A worker who believes he or she has not received full pay in accordance with these provisions may file a claim with the nearest district office of the Department. In addition to restitution of unpaid wages, an employee found to have been underpaid as a result of a willful violation of the law is entitled to an equal amount as liquidated damages. Violators are also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

Idaho

MINIMUM WAGE LAW

STATUTORY CITATION: Idaho Code §§ 44-1501 - 44-1509

GENERAL SUMMARY: The Minimum Wage Law establishes a state minimum wage, applicable to most employers in Idaho and their employees. The minimum wage rate is set in the statute to conform to and track the federal minimum wage, which is currently \$7.25 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: With the notable exceptions explained below, most workers employed in agricultural labor are entitled to the state minimum wage.

Exceptions — The Idaho minimum wage law does not apply to any individual older than 16 years of age who (1) is employed as a hand harvest worker, (2) is paid on a piecework basis, in an operation customarily paid on a piecework basis in the region of employment, (3) commutes to the farm daily from his or her permanent residence, and (4) was employed in agriculture less than 13 weeks during the preceding calendar year.

Hand-harvest workers 16 years old and younger working piecework on the same farm as their parents, and on the same piecework basis as workers over age 16, are also excluded from the state minimum wage.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or in any other manner discriminate against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570). This agency is responsible for enforcing compliance with the state minimum wage law. The agency has broad authority to investigate wage claims filed by workers under this law and the state wage payment laws. Workers who have not received the minimum wage to which they believe they are entitled should contact the Department's nearest labor compliance officer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

MINIMUM WAGE LAW

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 105/1 - 105/15

GENERAL SUMMARY: The Minimum Wage Law establishes a state minimum wage, currently \$8.25 an hour for covered adults and \$7.75 an hour for covered workers under the age of 18, generally applicable to individuals who work for an employer with 4 or more employees. The law also dictates that employers observe certain recordkeeping and posting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — With two major exceptions, outlined below, every employer who used more than 500 worker-days of agricultural labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any similar combination) is required to pay adult workers no less than \$8.25 for every hour of labor. Likewise, most workers under 18 years of age employed by such an employer are entitled to receive at least \$7.75 an hour.

EXCEPTIONS — The Minimum Wage Law does not apply to agricultural workers in the following categories:

- (1) Any worker who (a) is employed as a hand-harvest laborer on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) commutes daily from his or her permanent place of residence to the worksite, and (c) was employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Any worker 16 years of age or younger who (a) is employed as a hand-harvest laborer on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) is employed on the same farm as his or her parent, or person standing in the place of a parent, and (c) is paid the same piece rate as workers over the age of 16 are paid on the same farm.

RECORDKEEPING — Illinois employers are required to keep and retain for at least 3 years true and accurate payroll records with respect to each employee covered by the minimum wage. Records must include, at a minimum, (1) the name, address and occupation of each worker, (2) the wage rate, (3) the amount paid each pay period to each worker, and (4) the hours worked each day in each workweek by each worker.

POSTING — Subject employers must post a summary of the Minimum Wage Law and the associated regulations in a conspicuous location accessible to covered employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). The Department is charged with the responsibility to investigate and gather data regarding the wages, hours and other conditions of employment in agriculture and other industries subject to the Minimum Wage Law. Agents of the Department may enter all workplaces in the state, inspect payroll records, question employees, and investigate any matter pertaining to reported or suspected violations. A worker who has not received full wages in accordance with the law may file a claim with the Department. In addition to liability for unpaid wages, an employer found to have failed to pay the lawful minimum wage, or to make and keep required records, is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Employees may elect to enforce their right to the minimum wage in court, through legal counsel of their own choosing. A worker paid less than the wage to which he or she is entitled under this act may generally recover in a civil action the unpaid wages, plus punitive damages in the amount of 2 percent of the unpaid wages per month or an amount equal to the unpaid wages, whichever is less.

WAGES OF WOMEN AND MINORS ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 125/0.01 - 125/17

GENERAL SUMMARY: The Wages of Women and Minors Act declares it to be against public policy for employers to employ any woman or minor at an oppressive and unreasonable wage. The statute grants the state labor department authority to investigate the wages of women and minors in any covered occupation in Illinois, and to adopt minimum fair wage rates applicable to women or minors in that field if investigation finds that existing wages are less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wages of Women and Minors Act does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Indiana

MINIMUM WAGE LAW OF 1965

STATUTORY CITATION: Ind. Code §§ 22-2-2-1 - 22-2-2-13

GENERAL SUMMARY: Declaring that employment of workers at insufficient rates of pay threatens the health and well-being of the people of Indiana and injures the economy of the state, the Minimum Wage Law establishes a state wage floor equal to the federal minimum wage, which is currently \$7.25 an hour. The state minimum wage law generally applies to employers who have 2 or more employees and who are not otherwise required to pay the federal minimum wage.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law does not apply to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Iowa

MINIMUM WAGE LAW

STATUTORY CITATION: Iowa Code § 91D.1

GENERAL SUMMARY: Iowa's minimum wage law requires covered employers to pay their covered employees either the state or the federal minimum wage, whichever is greater. The law applies to employers and employees as those terms are defined in the federal Fair Labor Standards Act (see entry, U.S. — Wages & Hours — Minimum Wage) but generally does not apply to any establishment with an annual gross volume of sales less than \$300,000.

Both the state and federal minimum wages are currently \$7.25 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the federal minimum wage exempts all but the largest farming operations, Iowa farmworkers are entitled to the state minimum wage only if they are employed by a farm operator or other agricultural establishment that (1) used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year and (2) has a gross annual sales volume of at least \$300,000.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692). This agency is authorized to investigate complaints related to the state minimum wage, and to take action to enforce payment of the minimum wage when evidence shows there has been a violation. The Division may bring action in state court against employers who violate the law, and courts may order payment of back wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

MINIMUM WAGE AND MAXIMUM HOURS LAW

STATUTORY CITATION: Kan. Stat. § 44-1201 - 44-1213

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law requires all Kansas employers not covered by the federal minimum wage law and not otherwise exempted from the state statute, to pay their employees at least \$7.25 for every hour of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

MINIMUM WAGE LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.275 - 337.405 and § 337.010

GENERAL SUMMARY: Kentucky's minimum wage law establishes a wage floor of \$7.25 an hour, applicable to most industries and occupational classifications in Kentucky. The law prescribes an automatic increase in the state minimum wage to match the federal minimum wage, whenever the federal rate increases and effective the same date.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage does not apply to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

MINIMUM WAGE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 661 - 672

GENERAL SUMMARY: With some exceptions, the state minimum wage law declares it unlawful for employers in Maine to employ any worker at a wage rate less than the state minimum wage. Under a ballot measure approved by voters in November 2016, the minimum wage is set to increase in four steps, as follows:

Effective January 1, 2017: \$9.00 per hour Effective January 1, 2018: \$10.00 per hour Effective January 1, 2019: \$11.00 per hour Effective January 1, 2020: \$12.00 per hour

The existing rate will be adjusted each year thereafter, to reflect increases in the cost of living. The minimum wage statute provides further that whenever the federal minimum wage is increased above the existing state minimum, the state rate will automatically rise to the same amount, but in no case more than \$1.00 per hour above the statutory state minimum in effect at that time.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law does not apply to any individual employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Maryland

MARYLAND WAGE AND HOUR LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-401 - 3-431

RELATED REGULATIONS: Md. Code Regs. 09.12.41

GENERAL SUMMARY: Among other provisions, the Wage and Hour Law establishes a state minimum wage of \$8.75 an hour beginning July 1, 2016. The minimum wage is scheduled to rise to \$9.25 on July 1, 2017, and \$10.10 on July 1, 2018.

With some exceptions, the requirement to pay the minimum wage applies to most employers in Maryland. The right to receive the minimum wage applies to most employees, but it does not apply, among other exceptions, to any child under the age of 16 who is employed no more than 20 hours in a week.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — Farm operators and other agricultural establishments that used more than 500 worker-days of agricultural labor in each calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are generally required to pay their agricultural workers no less than the state minimum wage for every hour of employment.

 $EXCEPTIONS - Subject \ employers, as \ described \ above, are \ not \ obligated \ to \ pay \ the \ minimum \ wage \ to \ workers \ in \ either \ of \ the following \ exempt \ classifications:$

- (1) Individuals who (a) are employed as hand-harvest workers and paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (b) commute to the farm daily from their permanent residence, and (c) were employed in agriculture for less than 13 weeks in the preceding calendar year.
- (2) Workers 16 years of age or younger who are (a) employed as hand-harvest piece-rate workers in a recognized piecework operation, (b) employed on the same farm as their parent or a person standing in the place of their parent, and (c) paid at the same piece rate paid to workers over age 16 on the same farm.

RECORDKEEPING AND POSTING — Every farm employer subject to any provision of the Wage and Hour Law must make, and retain for a period of at least 3 years, a record of the name, address and occupation of each employee, the worker's rate of pay, the amount paid each pay period, and the hours worked each day and each workweek. The employer is also required to post a summary of the law and its associated regulations in a conspicuous and accessible location in or about the workplace.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Wage and Hour Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). The law requires the Division of Labor and Industry to vigorously enforce the policies embodied in it and grants agents of the Division the authority to enter any workplace in the state, examine and copy payroll records, and question employees. Any worker who has not received full wages in accordance with the law may file a wage claim with the Division, which is authorized to take assignment of the claim and bring court action to collect the claim on the worker's behalf. Employers who pay less than the required minimum wage may be fined up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers have the option of bringing private suit against an employer for recovery of unpaid wages under the Wage and Hour Law, as an alternative to enforcement by the Division of Labor and Industry. A judgment in the plaintiff's favor may, in addition to the wages involved, include court costs and attorney's fees.

Massachusetts

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, §§ 1 - 22

GENERAL SUMMARY: The Minimum Fair Wage Law declares it against public policy for employers to employ workers in most occupations in Massachusetts at an oppressive and unreasonable wage. In general, a wage rate is conclusively presumed to be oppressive and unreasonable if it is less than \$11.00 an hour, effective January 1, 2017. With few exceptions, any contract, agreement or understanding providing for an hourly wage below this level is null and void.

Notwithstanding the foregoing, in no case may the state minimum wage be less than 50 cents an hour higher than the federal minimum wage.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast with the fair wage floor prescribed for most other industries in the state, farm operators and other agricultural employers are not presumed to be paying an oppressive and unreasonable wage as long as they pay their agricultural employees at least \$8.00 an hour.

The minimum agricultural wage does not apply to workers 17 years of age or under.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such retaliatory action is deemed a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). The Department has authority to enter the premises of any employer, to review payroll records and question employees regarding reported or suspected violations of the minimum wage provision. A worker who has not received the applicable minimum fair wage may file a complaint with the Department, which must investigate the claim and may, with the worker's authorization, take assignment of the claim and bring legal action to collect it. In addition to liability for unpaid wages, court costs and attorney's fees, an employer who violates the minimum wage provision is subject to criminal prosecution, leading to a fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

■ WORKFORCE OPPORTUNITY WAGE ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 408.411 - 408.424

RELATED REGULATIONS: Mich. Admin. Code R. 408.701 - 408.787

GENERAL SUMMARY: The Workforce Opportunity Wage Act generally forbids any Michigan employer who (1) has 2 or more employees, and (2) is not subject to the minimum wage provisions of the federal Fair Labor Standards Act, from paying wages at a rate less than \$8.90 an hour beginning January 1, 2017, and \$9.25 beginning January 1, 2018.

Beginning in January 2019 and every January thereafter, the state treasurer will adjust the minimum wage to reflect the average annual percentage change in the consumer price index, provided that an annual increase may not exceed 3.5 percent. The revised rate will take effect on April 1 each year.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE — Because this law *does not apply* to employees who are not covered by the FLSA minimum wage provisions, farmworkers are entitled to the state minimum wage only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Other Exceptions — The state minimum wage also does not apply to (1) local hand harvest laborers who commute daily from their permanent residence, are paid on a piece-rate basis in traditionally piece-rate occupations, and were engaged in agriculture less than 13 weeks during the preceding calendar year, and (2) non-local minors, 16 years of age or under, who are hand harvesters, paid on a piece-rate basis in traditionally piece-rate occupations, employed on the same farm as their parent, and paid the same piece rate as those over 16.

PIECE RATE WORKERS — Under rules adopted by the director of the state licensing and regulatory affairs department, the piecework wage scale applicable to the harvesting of fruits and vegetables must be equivalent to the state hourly minimum wage specified above. Thus, if the payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity, he or she must receive an amount not less than the hourly minimum wage.

PAY STATEMENTS AND POSTING — Every employer subject to the Workforce Opportunity Wage Act must furnish each worker with a statement of hours worked, wages paid and deductions for each pay period. Subject employers must also keep a summary of the Act, its regulations and orders conspicuously posted at the workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). At any time within 3 years after a minimum wage violation, the worker may file a claim with the Department. If the Department's investigation finds reasonable cause to believe the employer has violated the law and the Department is unable to obtain voluntary compliance within a reasonable time, the agency must take action in court to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Subject to the same 3-year time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.

Minnesota

■ MINNESOTA FAIR LABOR STANDARDS ACT

STATUTORY CITATION: Minn. Stat. §§ 177.21 – 177.35

GENERAL SUMMARY: Among other provisions, the Minnesota Fair Labor Standards Act requires employers in the state to pay their covered employees no less than the specified minimum hourly wage applicable to their respective operations. The Act establishes two distinct minimum wage rates, one for workers employed by large establishments and one for workers in small establishments. There is also a designated rate for workers under the age of 20, applicable to hours worked during the first 90 days on the job.

In addition to the minimum wage provisions, the Act also prescribes recordkeeping and posting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — With four exceptions, described further on, agricultural employers must comply with the state minimum wage provisions outlined below.

Large Employers — Farm operators and other agricultural establishments that have an annual gross sales volume of \$500,000 or more must pay their workers age 20 and over no less than \$9.50 for every hour of work. For the first 90 consecutive days of employment, workers under the age of 20 may be paid no less than \$7.75 an hour.

Small Employers — Farm employers with gross annual sales of less than \$500,000 must pay all their workers no less than \$7.75 for every hour of work.

Beginning in 2017, these rates are expected to be increased annually, either (1) by 2.5 percent, or (2) by a percentage rate determined by the state labor commissioner using prescribed inflation data. However, the commissioner may order an increase not to take effect if economic conditions suggest an impending downturn in the state's economy.

EXCEPTIONS — Agricultural employers are not required to pay any of the minimum wage rates shown above to:

- A farmworker who receives a salary (that is, the worker is not paid by the hour) and works on a farming unit or operation
 where no more than 2 such workers are employed.
- (2) A farmworker who receives a weekly salary (that is, the worker is not paid by the hour), and the salary is greater than the equivalent of 48 hours at the state minimum wage plus 17 hours at time-and-a-half. At the current minimum wage, this excludes any worker who receives a weekly salary of roughly \$698 or more on a large farm, or \$569 or more on a small farm.
- (3) A worker under 18 who is employed to perform hand field work when one or both of the worker's parents are also hand field workers.
- (4) A worker under 18 who is employed as a corn detasseler.

DEDUCTIONS — To the extent that the resulting wages would amount to less than the applicable minimum, no direct or indirect deductions may be made for any of the following items:

- Special clothing which is required by the employer, by the nature of the job, or by law as a condition of the job, and which is not generally appropriate for use except on that job.
- (2) Purchased or rented equipment used on the job, except for tools, vehicles or other equipment which may be used outside the employment.
- (3) Consumable supplies required in the course of work.
- (4) Travel expenses in the course of employment, except those incurred in traveling between the worker's residence and the workplace.

RECORDKEEPING — Every employer subject to the Act must make and keep a record of (1) the name, address and occupation of each worker, (2) the rate of pay and amount paid each pay period to each worker, and (3) the hours worked each day and each workweek by the worker.

POSTING — Every employer subject to the Act must post summaries of the Act and the associated regulations in a conspicuous location accessible to each covered worker.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such violations are subject to a fine of from \$700 to \$3,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). Representatives of this agency are responsible for assuring employer compliance with the state Fair Labor Standards Act, and for that purpose are authorized to examine payroll records, books and other documents related to wages, hours and working conditions at any place of business or employment. The Department may investigate wage claims or complaints by any worker against an employer if failure to pay a wage may violate state law or an agency regulation. In addition to the unpaid wages involved, an employer who pays a worker less than the required minimum wage may also be liable to the worker for an additional equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, a worker may take private civil action to collect a minimum wage claim, using legal counsel of the worker's own choice. A judgment against the employer may include court costs and attorney's fees.

Missouri

■ MINIMUM WAGE LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.500 - 290.530

RELATED REGULATIONS: Mo. Code Regs. Title 8, §§ 30-4.010 - 30-4.060

GENERAL SUMMARY: Missouri's minimum wage law requires most employers in the state to pay their employees no less than (1) the state minimum wage, or (2) the applicable federal minimum wage, whichever is higher.

The state minimum is currently \$7.70 an hour.

The state minimum wage rate may be increased or decreased on January 1 each year, according to the percentage increase or decrease in the cost of living, as determined by the state labor department.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers are entitled to the state minimum wage only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during a calendar quarter in the current or preceding calendar year. That volume of labor is equivalent to, for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination.

Exceptions — In addition to excluding farmworkers on smaller farms that do not meet the 500 worker-day threshold, the state minimum wage law generally does not apply to workers in either of these two categories:

- (1) Workers who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) commute daily from their permanent residence to the farm, and (d) were employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Workers 16 years of age or younger who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) are employed on the same farm as their parents, and (d) are paid the same piece rate as workers over the age of 16 are paid on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a claim, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403). A worker who believes he or she is entitled to the state minimum wage and who has not been paid accordingly may file a claim with the Department, which has authority to investigate and make findings as to an employer's compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — An employee may bring a civil suit against an employer to collect unpaid minimum wages, using a private attorney or public legal service provider. An employer found to have paid less than the required wages under this law is liable for the full amount of the wages, plus an additional equal amount as liquidated damages, less any amount actually paid, plus court costs and reasonable attorney's fees.

Montana

MONTANA MINIMUM WAGE AND OVERTIME COMPENSATION ACT

STATUTORY CITATION: Mont. Code §§ 39-3-401 - 39-3-409

GENERAL SUMMARY: Chapter 3, Part 4 of the state labor laws requires most Montana employers who have annual gross sales above \$110,000 to pay their employees no less than either the state minimum wage (currently \$8.05 an hour) or the federal minimum wage (\$7.25), whichever is greater. Employers with sales not exceeding \$110,000 are generally required to pay their employees no less than \$4.00 an hour.

On or before September 30 each year, the state minimum wage rate may be adjusted, to reflect any changes in the August-to-August cost of living. The adjusted minimum wage takes effect on January 1 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworkers in Montana are generally subject to the same minimum wage standards as other workers in the state, as summarized above, with one variation. In the case of a worker employed for part of a calendar year that includes periods requiring working hours in excess of 8 hours a day and other seasonal periods requiring working hours substantially less than 8 hours a day, a subject employer has three options:

- Pay the worker by the hour, at or above the applicable minimum specified above.
- (2) Pay the worker at a fixed rate of compensation, but guarantee the applicable minimum wage for every hour of actual employment by keeping a record of the hours worked. The total wages paid to the worker may not be less than the applicable minimum, multiplied by the total number of hours worked.
- (3) Pay a monthly salary in lieu of the minimum wage, but in no case less than \$635 a month. The employer is authorized to include as part of the worker's salary the reasonable cost of furnishing the worker with lodging or other facilities, provided such benefits are customarily furnished by the employer to his or her workers, and that the costs for these benefits do not exceed 40 percent of the worker's total salary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600). A worker who has been paid wages at a rate less than the wage or salary required under the minimum wage law may file a complaint with the Department, which is authorized to assist in collection of the unpaid amount as a wage claim action under the state wage payment law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nebraska

WAGE AND HOUR ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1201 – 48-1209

GENERAL SUMMARY: The Wage and Hour Act requires most employers in Nebraska who have 4 or more employees at any one time to pay each of their employees at a rate no less than \$9.00 for every hour on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wage and Hour Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Nevada

MINIMUM WAGE LAWS

STATUTORY CITATION: Nev. Const. Art. 15, § 16 and Nev. Rev. Stat. §§ 608.250 - 608.290

RELATED REGULATIONS: Nev. Admin. Code §§ 608.100 - 608.108

GENERAL SUMMARY: Under provisions in the state constitution, most Nevada employers who provide their employees with certain defined health benefits are required to pay their employees who are age 18 and over no less than \$7.25 per hour. Employers who do not provide such benefits must pay their adult employees at least \$8.25 an hour.

These rates are adjusted annually to track changes in the federal minimum wage or the cost of living, whichever is greater. The revised rates are published on April 1 each year and take effect on the following July 1.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers age 18 and over are entitled to the applicable minimum wage, but only if they work for an employer who used more than 500 worker-days of agricultural labor in one or more calendar quarters of the preceding calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Employers are prohibited from discharging an employee, reducing an employee's wages, or otherwise discriminating against an employee for using any civil remedies to enforce these provisions, or for asserting any other rights under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). Any worker who has been paid less than the minimum wage applicable to the job performed may file a claim with the Commissioner, who is responsible for enforcing payment of the minimum wage by the employer. The Commissioner must report all violations to the respective district attorneys, who in turn must prosecute the employers involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — At any time within 2 years of an employer's failure to pay the required minimum wage, a worker may, through a private attorney or public legal service provider, bring suit to recover the unpaid wages.

New Hampshire

O MINIMUM WAGE LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 279:1 - 279:29

GENERAL SUMMARY: With some exceptions, no person, firm or corporation may employ any worker at an hourly pay rate lower than the federal minimum wage, which is currently \$7.25 per hour. Employers subject to the state minimum wage law are also required to keep true and accurate records of the hours and wages of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage does not apply to employees engaged in farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

New Jersey

NEW JERSEY STATE WAGE AND HOUR LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56a - 34:11-56a30

RELATED REGULATIONS: N.J. Admin. Code 12:56, Subch. 3

GENERAL SUMMARY: The New Jersey State Wage and Hour Law declares the employment of workers in any occupation at an oppressive and unreasonable wage to be contrary to public policy. Under rulemaking authority granted by the statute, the state labor commissioner has adopted regulations requiring an annual cost-of-living adjustment in the state minimum wage rate last prescribed in the Wage and Hour Law, based on August-to-August changes (if any) in the consumer price index.

Effective January 1, 2017, the state minimum wage is \$8.44 per hour, which generally applies to workers 18 years of age and over.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — Like their counterparts in other covered occupations, farmworkers in New Jersey who are 18 years of age and older are generally entitled to at least \$8.44 for every hour on the job. Workers paid on a piecework basis must receive for their labor no less than the minimum hourly wage rate multiplied by the total number of hours worked.

RECORDKEEPING — Farm operators and other employers subject to the Wage and Hour Law must keep a true and accurate record of the hours worked by and the wages paid to each covered worker.

POSTING — Employers must keep a summary of the law and any applicable wage orders and regulations posted in a conspicuous and accessible place on the premises where any covered worker is employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305). Authorized representatives of the Department may enter any place of business where workers are employed, for the purpose of examining payroll records, inspecting working conditions, and questioning employees to ascertain the employer's compliance with the Wage and Hour Law and any associated wage orders or regulations. The Department may act either in response to a worker's claim for unpaid wages or on its own initiative. At the request of any employee paid less than the minimum wage to which the employee is entitled under the statute, the Department may take assignment of a wage claim and bring legal action on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover the unpaid wages, plus court costs and attorney's fees.

New Mexico

MINIMUM WAGE ACT

STATUTORY CITATION: N.M. Stat. §§ 50-4-19 - 50-4-30

GENERAL SUMMARY: The Minimum Wage Act requires most New Mexico employers who have at least one employee to pay their workers no less than \$7.50 for every hour of employment.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERED EMPLOYEES — In general, farmworkers employed on a farm or other establishment that used more than 500 worker-days of agricultural labor during any calendar quarter in the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are entitled to the state minimum wage of \$7.50 an hour. Subject employers who furnish food, supplies, housing or utilities to an employee engaged in agriculture may count the reasonable value of such furnished items as wages in meeting their minimum wage liability.

EXCEPTIONS — The minimum wage does not apply to any worker who (1) is employed as a hand-harvest laborer paid on a piecework basis in a crop activity traditionally regarded as a piecework operation in the local region, (2) commutes daily from home to the worksite, and (3) was employed in agriculture for less than 13 weeks during the preceding year. Also exempt are workers 16 years of age or younger who are employed as hand-harvest workers in traditionally piecework operations, employed on the same farm as their parents or guardian, and paid the same piece rate as adult workers on the same farm.

SPECIAL NOTES OR ADVISORIES

PERSONS WITH A DISABILITY — In order to prevent curtailment of opportunities for employment, the enforcement agency may issue special certificates providing for the employment of individuals whose earning or productive capacity is impaired by disability or injury, at wages that are lower than the state minimum wage, but not less than 50 percent of such wage.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (505-841-4400). A subject employer who violates any provision of the Minimum Wage Act is liable to the employees affected in the amount of their unpaid minimum wages and an additional equal amount as liquidated damages. A worker may recover unpaid minimum wages by filing a claim with the Department, which is obligated to investigate the claim and is authorized to collect it if investigation confirms a violation. Independent of civil liability, employers found to have violated the Act are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative claim with the Department of Workforce Solutions, a worker may recover wages, damages, court costs and reasonable attorney's fees in a private civil suit against the employer, utilizing outside legal assistance.

New York

MINIMUM WAGE ACT

STATUTORY CITATION: N.Y. Labor Law §§ 650 – 665

GENERAL SUMMARY: The Minimum Wage Act establishes a general wage floor for every hour of employment, applicable to virtually all employers in New York whose employees are not explicitly excluded from coverage. The minimum wage currently varies by area; the rates effective during 2017 are shown here:

New York City - Establishments with 10 or Fewer Employees, \$10.50 per hour

New York City — Establishments with 11 or More Employees, \$11.00 per hour

Nassau, Suffolk and Westchester Counties — \$10.00 per hour

Remainder of the State - \$9.70 per hour

The minimum wage will rise to \$15.00 an hour statewide by 2021.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Act does not apply to workers who are employed in labor on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

■ LABOR LAW (FARM WORKER MINIMUM WAGE)

STATUTORY CITATION: N.Y. Labor Law §§ 670 - 683

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 190

GENERAL SUMMARY: Article 19-A of the state labor statutes establishes a statewide agricultural minimum wage, defined to equal the state minimum wage described in the previous entry, which is currently \$9.70 per hour outside the New York City metropolitan area. The agricultural minimum wage applies to farmworkers employed on farms with an annual agricultural payroll of at least \$3,000

SPECIFIC TERMS AND CONDITIONS

COVERAGE AND MINIMUM WAGE — Every farm employer who paid at least \$3,000 in farm wages during the preceding year is required to pay its workers no less than \$9.70 for every hour of each employee's labor in the current calendar year.

BASIS FOR PAYMENT — The minimum wage applies whether the wage is paid on an hourly, piecework, commission or some other basis. For any given workweek or pay period, the worker's gross pay may not be less than the prescribed minimum hourly rate, multiplied by the number of hours the worker was on the job during that period.

ALLOWANCES FOR MEALS, LODGING, AND UTILITIES — With some exceptions, employers who provide meals to a worker may deduct \$1.70 per meal from the worker's gross wages, provided the worker earns no less than \$254 in a two-week period. Likewise, an employer who provides lodging and utilities may deduct up to \$12.65 per week for multiple-occupancy housing, up to \$5.00 per day for an individual worker living alone, or \$8.00 a day for an individual worker residing with his or her family.

PROHIBITED DEDUCTIONS — A covered employer is not allowed to make any deduction from a worker's pay for breakage or spoilage, cash shortages or losses, or fines or penalties for tardiness, misconduct or quitting without notice.

PAY STATEMENTS — For each pay period, the employer is required to furnish each worker a statement showing (1) the number of hours worked, (2) the worker's hourly or piece-rate wage, (3) the piece-rate unit and number of units produced, if applicable, (4) gross wages, (5) allowances and deductions, and (6) net wages.

FINAL PAY — Workers who are terminated must receive their full, final pay no later than the next regular payday after termination, along with a written statement showing total gross and net earnings and listing all deductions from gross pay.

NOTIFICATIONS — At the time of hire, a farm employer subject to these provisions must give each worker a written statement outlining the conditions of employment, including among other items (1) the employer's name, address and phone number, (2) the location and type of work, (3) the housing arrangements, including costs, (4) allowances, if any, to be deducted for meals and lodging, (5) any benefits to be provided by the employer, (6) the wages to be paid and the pay schedule, (7) the period of employment, (8) all other planned payroll deductions, and (9) any overtime provisions. This same information must be posted by the employer in a conspicuous place on the farm.

EMPLOYER RECORDS — Every covered employer must keep a record of the name, address and Social Security number of each farm employee, the worker's total hours per day and week, the number of piecework units produced (if applicable), the wage rate paid, gross wages, deductions and allowances claimed, and any cash advances made to the worker. For any minors they employ, employers must document the minor's name, address, birthdate, parent or guardian's name and address, and the number of the farm work permit issued to the minor if required.

FARM LABOR CONTRACTORS — For purposes of the minimum wage, if a farm labor contractor recruits or supplies farmworkers for work on a farm, the workers are deemed employees of the owner, lessee or operator of the farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). For the purpose of examining records relating to wages and working hours and of ascertaining compliance with the agricultural minimum wage standards, representatives of the Department are authorized to enter any place where agricultural workers are employed. On behalf of a farmworker paid less than the applicable minimum wage, the Department may bring necessary legal action to collect the unpaid portion plus interest, and may assess an additional 25 percent of that amount as a civil penalty.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, a worker has a right under these provisions to recover unpaid minimum wages in a private civil suit, using outside legal counsel. A judgment in the worker's favor may include liquidated damages, court costs and attorney's fees. Whether filed by the Department or privately, civil action must be commenced within 6 years of the date the wages first became due.

North Carolina

O WAGE AND HOUR ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 - 95-25.25

GENERAL SUMMARY: The Wage and Hour Act establishes a statewide hourly minimum wage, generally defined as either \$6.15, or the federal minimum wage (currently \$7.25), whichever is higher. The state minimum wage is applicable to most lines of work in North Carolina not subject to a statutory exception.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage provision in the Wage and Hour Act does not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

MINIMUM WAGE AND HOUR LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-06-01 - 34-06-22

RELATED REGULATIONS: N.D. Admin. Code 46-02-07

GENERAL SUMMARY: With relatively few exceptions, Chapter 34-06 of the state statutes makes it illegal for anyone in North Dakota to employ workers at wages less than \$7.25 per hour. The state labor commissioner, however, has authority to investigate wages and working conditions in any occupation and to adopt regulatory standards that may differ from those prescribed in the minimum wage and hour law.

PROVISIONS APPLICABLE TO AGRICULTURE: With no statutory or regulatory exceptions currently in effect, agricultural employees are generally entitled to the \$7.25 hourly minimum wage to the same extent as their counterparts in other industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). The Department is responsible for enforcing the wage and hour law, including resolution of wage disputes between employees and employers and collection of unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

MINIMUM FAIR WAGE STANDARDS LAW

STATUTORY CITATION: Ohio Const. Art. II, § 34a; Ohio Rev. Code §§ 4111.01 - 4111.99

GENERAL SUMMARY: Under a state constitutional initiative approved by Ohio voters in 2006, workers who (1) are employed by a business with gross annual receipts exceeding \$297,000, and (2) are not excluded by law from receiving the federal minimum wage, are generally entitled to receive the state minimum wage, which is currently \$8.15 an hour.

Unless excluded by law from the federal minimum, workers employed by a business with gross sales of \$297,000 or less must receive no less than the federal minimum wage, which is currently \$7.25 an hour.

On September 30 each year, both the state minimum wage rate and the gross-receipts threshold are adjusted to reflect the inflation rate for the preceding 12-month period. The revised amounts go into effect on January 1 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE -

Coverage — In general, a farm operator or other agricultural establishment that (1) has gross annual sales of more than \$297,000 and (2) used more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination), is obligated to pay each agricultural employee no less than \$8.15 an hour. Farmworkers employed by an agricultural establishment which meets the 500 worker-day test, but the sales of which amount to \$297,000 or less, are entitled to at least \$7.25 per hour for every hour of work.

Exceptions — The minimum wage requirements do not apply to:

- (1) Workers employed by a farm operation whose volume of sales and agricultural employment is below the respective coverage thresholds cited above.
- (2) Hand-harvest laborers who (a) are paid on a piece-rate basis, in an operation generally recognized as a piecework job in the local region, (b) commute daily from their permanent residence to the farm workplace, and (c) were employed in agriculture less than 13 weeks during the preceding year.
- (3) Hand-harvest laborers 16 years of age or younger who (a) are paid on a piece-rate basis in a recognized piecework operation, (b) are employed on the same farm as their parent or guardian, and (c) are paid the same piecework wage as workers over the age of 16 employed on the same farm.

RECORDKEEPING — Every agricultural employer subject to the state minimum wage must make a record of the name, address and occupation of each employee, the worker's pay rate, and the worker's total pay. Payroll records must be preserved for at least 3 years.

POSTING — Subject employers are required to keep a summary of the minimum fair wage standards law and the associated regulations posted in a conspicuous and accessible place at or near each location where there are covered employees at work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). The Department has authority to receive and investigate minimum wage complaints filed by employees, and for that purpose may examine and copy payroll and related records at any place of employment. At the written request of a worker paid less than the required minimum wage, the Department may take assignment of a wage claim and bring necessary legal action to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who does not receive the pay to which he or she is entitled under these provisions may elect to file suit against the employer directly, through private legal counsel or a public legal service provider. Court action must be commenced within 3 years of the date of the violation, or within one year of the final disposition by the state of a complaint for the same violation, whichever is later. An employer who pays a covered worker less than the applicable minimum wage is liable to the worker for the full amount of wages, less any amount actually paid, and up to *double* the amount of unpaid wages in damages. The employer is also liable for court costs and attorney's fees deemed appropriate by the court.

Oklahoma

O OKLAHOMA MINIMUM WAGE ACT

STATUTORY CITATION: Okla. Stat. Title 40, §§ 197.1 - 197.17

GENERAL SUMMARY: In order to protect working people from conditions of labor which have a pernicious effect on their health or morals, the Oklahoma Minimum Wage Act requires most employers with more than 10 full-time workers, or gross annual sales in excess of \$100,000, to pay their employees hourly wages equal to or greater than the federal minimum wage, currently \$7.25 an hour.

PROVISIONS APPLICABLE TO AGRICULTURE: The Oklahoma Minimum Wage Act does not apply to any farm employer or any worker employed on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Oregon

MINIMUM WAGE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 653.010 - 653.269

RELATED REGULATIONS: Or. Admin. R. 839-020-0000 - 839-020-1020

GENERAL SUMMARY: Provisions in Chapter 653 of the Oregon statutes prohibit most employers in the state from employing workers at wages less than the Oregon minimum wage. In early 2016, the state approved a measure raising the hourly minimum wage in seven steps and establishing separate rates for non-urban counties, standard counties, and the Portland metro area:

Effective July 1, 2017: \$10.00 in non-urban counties, \$10.25 in standard counties, \$11.25 in Portland Metro

Effective July 1, 2018: \$10.50 in non-urban counties, \$10.75 in standard counties, \$12.00 in Portland Metro

Effective July 1, 2019: \$11.00 in non-urban counties, \$11.25 in standard counties, \$12.50 in Portland Metro

Effective July 1, 2020: \$11.50 in non-urban counties, \$12.00 in standard counties, \$13.25 in Portland Metro

Effective July 1, 2021: \$12.00 in non-urban counties, \$12.75 in standard counties, \$14.00 in Portland Metro

Effective July 1, 2022: \$12.50 in non-urban counties, \$13.50 in standard counties, \$14.75 in Portland Metro

Beginning July 1, 2023, and on July 1 each year thereafter, the standard-county minimum wage will be adjusted to reflect any increase in the August-to-August consumer price index. The non-urban minimum will be set at \$1.00 per hour less than the standard rate, and the Portland Metro rate will be \$1.25 over the standard rate.

Every employer subject to the minimum wage must keep a record of the name, address and occupation of each employee and the actual hours worked each week and each pay period. With every payment of wages, subject employers must provide each worker with an itemized statement of the amount and purpose of each deduction from the worker's wages.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERAGE — Unless excluded by one of the exceptions noted below, farmworkers in Oregon are entitled to receive at least the minimum wage for every hour of labor, in accordance with the schedule outlined above, and their employers must observe the same recordkeeping and wage itemization requirements applicable to other subject employers. In applying the minimum wage, employers may deduct the fair-market value of lodging, meals or other facilities or services furnished for the private benefit of their workers.

EXCEPTIONS — The following classes of farmworkers are not covered by the state minimum wage law:

- (1) Workers employed as hand harvest or pruning laborers who are (a) paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, and (b) working for an employer who did not use more than 500 worker-days of piecework-paid farm labor during any calendar quarter of the preceding calendar year.
- (2) Hand-harvest or pruning workers who (a) are paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, (b) commute daily from their permanent residence to the farm job site, and (c) were employed in agricultural labor less than 13 weeks during the preceding calendar year.
- (3) Hand-harvest workers who (a) are 16 years of age or younger, (b) are paid on a piece-rate basis in a recognized piecework operation, and (c) are paid at the same piece rate as workers over the age of 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844). Representatives of the Bureau are authorized to examine payroll records at any place of employment in the state, interview employees, and take other steps to ascertain compliance with the minimum wage provisions. The Bureau may take legal action to recover unpaid minimum wages on behalf of any worker who has received less than the amount to which he or she is entitled. In addition to the unpaid wages involved, an employer found to have unlawfully paid less than the minimum wage is liable for court costs and attorney's fees, as well as civil penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

MINIMUM WAGE ACT OF 1968

STATUTORY CITATION: 43 Pa. Stat. §§ 333.101 - 333.115

GENERAL SUMMARY: The Minimum Wage Act establishes a statewide hourly minimum wage of \$7.15, but provides that whenever the federal minimum wage is increased above that level, the federal rate will prevail, effectively setting the current state minimum wage at \$7.25 per hour.

The Act requires subject employers to keep an accurate record of the hours worked by and wages paid to each employee, and to post a summary of the Act and the associated regulations in a conspicuous location at the workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's minimum wage provisions do not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SEASONAL FARM LABOR ACT (WAGES AND HOURS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.201 - 1301.207

GENERAL SUMMARY: Under the Seasonal Farm Labor Act, seasonal farmworkers are entitled to be compensated at pay rates no less than the state hourly wage floor established by the Minimum Wage Act of 1968 (see preceding entry), and their employers must observe corresponding recordkeeping duties. As used here, the term "seasonal farmworker" generally means an individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

MINIMUM WAGE — Every employer of seasonal farmworkers, as described above, must pay each such worker at least \$7.25 for every hour of labor. In any given workweek, the earnings of each worker paid on a piece-rate basis must amount to no less than \$7.25 multiplied by the number of hours the worker was employed during such week. The minimum wage applies to minors to the same extent as adult workers, and piecework-paid minors must be compensated at the same piece rate applicable to adults performing the same operation.

RECORDKEEPING — Every employer of seasonal farm labor is required to maintain a record on each worker employed, to include, among other information, the worker's name and Social Security number, total wages earned, hours worked, and the hourly or piecework wage rate.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Agents of the Department are authorized to inspect payroll records at any place of employment, or at any establishment maintained by an employer or farm labor contractor, in order to ascertain compliance with the minimum wage provisions of the Seasonal Farm Labor Act. A worker who has not received pay in accordance with these provisions may file a complaint with the Department, and if the claim is determined valid, the agency may take legal action on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

PUERTO RICO MINIMUM WAGE, VACATION AND SICK LEAVE ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 250 – 250j

RELATED REGULATIONS: Mandatory Decrees 57, 58, and 69

GENERAL SUMMARY: The Puerto Rico Minimum Wage, Vacation and Sick Leave Act provides that the minimum wage set by the U.S. Congress under the federal Fair Labor Standards Act — currently \$7.25 per hour — applies to workers in Puerto Rico to the same extent and subject to the same exemptions, exclusions and exceptions. Employers in Puerto Rico who are exempt under FLSA from paying the federal minimum wage must pay their workers no less than 70 percent of the federal minimum, or \$5.08 an hour.

Industries that were paying higher wages under a mandatory decree (administrative wage order) when the Minimum Wage, Vacation and Sick Leave Act went into effect must continue to pay the higher rate.

Under the Act, most employees other than domestic workers are also entitled to accrue vacation leave, at a rate of 1/2 day per month during the first year of employment, 3/4 day per month from the second through the fifth year, 1 day per month from the sixth through the 15th year, and $1^1/4$ days each month thereafter. Sick leave accrues at a rate of one day each month. Employees must work no less than 130 hours a month to earn the respective credit for vacation and sick leave.

Exception — In the case of employers who are residents of Puerto Rico and who employ no more than 12 workers, vacation leave accrues at the rate of 1/2 day per month for as long as the employer's workforce does not exceed 12 employees.

PROVISIONS APPLICABLE TO AGRICULTURE

WORKERS COVERED BY FLSA — Farmworkers are entitled to the \$7.25 minimum wage currently in effect under the Fair Labor Standards Act only if they work for an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Such workers are also entitled to accrue vacation and sick leave, at the rates noted above, for each month in which they work at least 130 hours.

WORKERS NOT COVERED BY FLSA — Farmworkers who are employed by an agricultural establishment that does not meet the 500 worker-day test described above must generally be paid no less than \$5.08 an hour. These workers are not entitled to accrue vacation and sick leave under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act.

MINIMUM PAY UNDER MANDATORY DECREES — All three of the mandatory decrees pertaining to the agricultural industry provide for hourly wages that are less than the \$7.25 and \$5.08 rates prescribed in the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, and thus are not applicable.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

PREEMPTION BY GUARANTEED INCOME — The minimum wage rates indicated above may be effectively preempted by a separately legislated "guaranteed income," the payment of which is underwritten by the government of Puerto Rico. As described in the next entry, where the guaranteed income is higher than the minimum wage, the farm operator pays the guaranteed income to the worker and the government reimburses the farm operator for the difference between the guaranteed income and the minimum wage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any worker who receives lower compensation than the rate prescribed in or authorized under the Minimum Wage Act may file a claim with the Department, which has power to prosecute the claim in court on the worker's behalf. A worker's claim for unpaid wages must be filed within one year after the worker's employment ends.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker claiming a violation of the Act is entitled to recover in a civil suit the unpaid wages plus an additional equal amount as damages, as well as interest, court costs and attorney's fees. Court action, through a private attorney or a public legal service provider, must be initiated within one year after the claim arises.

GUARANTEED INCOME LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 2001 - 2009b and §§ 2031 - 2040

GENERAL SUMMARY: Chapter 81 of the Puerto Rico labor laws authorizes payment of a guaranteed income to workers in the agricultural phase of the sugarcane industry, while Chapter 83A extends the income guarantee to most other agricultural workers.

SPECIFIC TERMS AND CONDITIONS: The Commonwealth of Puerto Rico guarantees agricultural workers an hourly income of at least \$5.25, but only after employers have met their obligations under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, statutory overtime pay provisions, and compensation requirements under any existing labor contract. To the extent that a worker's pay for a given hour's work amounts to less than the guaranteed hourly earnings, the employer must pay the worker the guaranteed income for that hour of labor. The difference between the guaranteed income and any lesser mandatory wage borne by the employer (known as the "income supplement") is reimbursed to the employer by the government of Puerto Rico within 90 days after the employer has submitted the required reporting forms.

PRIMARY ENFORCEMENT AGENCY – Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350). This agency is responsible for seeing that agricultural workers receive the guaranteed income applicable to their respective occupational activities and may investigate the claim of any worker who has not been properly compensated. The agency also administers the reimbursement provisions of the guaranteed income program, including the processing of report forms received from growers, computation of grower wage reimbursements and subsidies, and authorization of payments.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). The Department is responsible for enforcing employer compliance with Puerto Rico's labor laws and may investigate any agricultural employer who fails to pay the applicable guaranteed income to a worker whose hourly compensation is below the guaranteed level.

Rhode Island

RHODE ISLAND MINIMUM WAGE ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-12-1 - 28-12-25

GENERAL SUMMARY: The Rhode Island Minimum Wage Act entitles most employees in the state to a wage no lower than \$9.60 an hour, and requires all employers subject to any provision of the Act to keep a record of the wage rates, hours, earnings and related payroll data on each of their employees and to post a summary of the law at the workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: Like employees in most other industries, farmworkers in Rhode Island are generally entitled to receive at least \$9.60 for every hour of work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550). This agency is responsible for enforcement of the Minimum Wage Act and has authority to investigate any claim submitted by a worker aggrieved by an alleged violation. As such, the Department has authority to enter any workplace, inspect payroll and other employment records, and question employees for the purpose of determining compliance. At a worker's request, the Department may take an assignment of the worker's wage claim in trust and bring legal action to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the state labor department, a person who has not received the minimum wage may take action against the employer involved in civil court, using a private attorney or public legal service provider. In addition to recovering the amount of the unpaid wages, the worker may be entitled to compensatory damages and liquidated damages up to two times the amount of unpaid wages, plus attorney fees and court costs. Court action to recover unpaid wages is barred unless it is filed within 3 years after the date the wages were due.

South Dakota

WAGE AND HOUR LAWS (MINIMUM WAGE)

STATUTORY CITATION: S.D. Codified Laws §§ 60-11-3 - 60-11-7

GENERAL SUMMARY: With few exceptions, employers in South Dakota must pay each employee who is 18 years of age or older no less than the hourly state minimum wage, which may be adjusted each year to account for increases in the cost of living as measured by the August consumer price index for all urban consumers (U.S. city average for all items).

On October 15 each year, the state labor secretary is required to publish the adjusted minimum wage rate, which becomes effective the following January 1. The current minimum wage for adults is \$8.65 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage provisions apply to agricultural employment to the same extent as labor in non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). The Department is authorized to investigate and prosecute any reported or suspected violation of the state labor laws, including complaints charging non-payment of the minimum wage. In any action against an employer for failure to pay wages where oppression, fraud or malice is found on the employer's part, the worker is generally entitled to recover double the amount of the unpaid wages as damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

TEXAS MINIMUM WAGE ACT

STATUTORY CITATION: Tex. Labor Code §§ 62.001 - 62.205

GENERAL SUMMARY: With some exceptions, the Texas Minimum Wage Act requires employers to pay their employees no less than the federal minimum wage rate, which is currently \$7.25 per hour. The Act also obliges employers to provide their employees with an earnings statement each pay period.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE COVERAGE — On substantially equal terms with their counterparts in other industries, Texas agricultural workers (other than those engaged in livestock production and dairy farming) are entitled to pay at a rate no less than the federal minimum wage, currently \$7.25 an hour.

Exception — Workers who are under 18 years of age and have not graduated from high school or a vocational training program, and workers under 20 who are regularly enrolled in high school, college or a vocational training program, are not entitled to the state minimum wage. These exemptions do not apply to workers employed in agriculture on a piece-rate basis.

VALUATION OF MEALS AND LODGING — The reasonable cost to the employer of furnishing a worker with meals, lodging, or both, may be included in computing the worker's wages, provided the employer customarily provides meals and lodging to employees and that the costs are itemized in the worker's earnings statement, described below.

EARNINGS STATEMENTS — At the end of each pay period, employers are required to give each worker a signed written statement showing (1) the worker's name, (2) the rate of pay, (3) the worker's total earnings for the pay period, (4) any deductions made from the worker's earnings, (5) the net wages paid, and (6) the total number of hours worked if paid by the hour, or the number of units of production if compensated on a piecework basis.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027). Although the Texas Minimum Wage Act does not explicitly assign enforcement responsibility, the state attorney general's office regards the failure to pay the minimum wage as a violation of the state payday laws, described in the next entry. A worker who does not receive the required minimum wage may file a claim for unpaid wages with the Texas Workforce Commission, on a form available online at www.twc.state.tx.us/jobseekers/how-submit-wage-claim-under-texas-payday-law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

■ UTAH MINIMUM WAGE ACT

STATUTORY CITATION: Utah Code §§ 34-40-101 - 34-40-205

RELATED REGULATIONS: Utah Admin. Code R. 610-1

GENERAL SUMMARY: The Utah Minimum Wage Act establishes a statewide hourly wage floor applicable to most workers who are not covered by the federal minimum wage (see entry, U.S. — Wages & Hours — Minimum Wage). Utah's minimum wage is set by the state labor commission, which must review it at least every 3 years, but in no case may the state rate exceed the federal minimum.

The current Utah minimum wage is \$7.25 per hour for adult workers. For the first 90 days on the job with a particular employer, workers under the age of 18 must receive no less than \$4.25 an hour, but thereafter are entitled to the full adult minimum.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the state minimum wage protects workers excluded from coverage of the federal minimum wage law, farm employers in Utah that used no more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are generally required to pay their adult employees at least \$7.25 for every hour of labor. Their workers under age 18 must receive at least \$4.25 an hour during their first 90 days on the job, and \$7.25 thereafter.

Exceptions — The state minimum wage does not apply to any farmworker who (1) is employed as a piecework-paid harvest laborer in an operation customarily paid on a piecework basis in the region of employment, or (2) was employed in agriculture for less than 13 weeks during the preceding year.

PRIMARY ENFORCEMENT AGENCY – Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238). The Division has authority to accept and investigate complaints of non-payment of the state minimum wage, and to work with local and state prosecuting attorneys to enforce compliance. Violations of the Act are punishable by both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative claim, a worker may enforce payment of the minimum wage in civil court, using a private attorney or public legal service provider. The complainant may recover the difference between the wages paid and the minimum wage, plus interest, court costs and attorney's fees. A civil suit must be filed within 2 years of the alleged violation.

Vermont

MINIMUM WAGE LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 381 – 397

GENERAL SUMMARY: With some exceptions, no one in Vermont who has 2 or more employees may employ any such worker at a wage rate less than \$10.00 an hour beginning January 1, 2017 (\$10.50 an hour beginning January 1, 2018).

On January 1 each year starting in 2019, the state minimum wage rate will be increased by 5 percent, or by the percentage increase in the consumer price index, whichever is smaller. In no event, however, may the minimum wage be decreased from one year to the next.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Virginia

O VIRGINIA MINIMUM WAGE ACT

STATUTORY CITATION: Va. Code §§ 40.1-28.8 – 40.1-28.12

GENERAL SUMMARY: The Virginia Minimum Wage Act requires most employers with 4 or more employees at any one time who are not covered by the federal minimum wage, to pay each worker no less than the federal minimum wage (currently \$7.25 per hour).

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Act does not apply to anyone employed as a farm laborer or farm employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

STATUTORY CITATION: Wash. Rev. Code §§ 49.46.005 – 49.46.920

RELATED REGULATIONS: Wash. Admin. Code 296-131-117

GENERAL SUMMARY: The Washington Minimum Wage Act requires most employers in the state to pay each of their employees who are at least 18 years of age wages at a rate no less than the state minimum wage. A statewide ballot initiative approved in November 2016 increases the minimum wage in six steps between 2017 and 2022:

Effective January 1, 2017: \$11.00 per hour Effective January 1, 2018: \$11.50 per hour Effective January 1, 2019: \$12.00 per hour Effective January 1, 2020: \$13.50 per hour Effective January 1, 2021: \$13.86 per hour Effective January 1, 2022: \$14.23 per hour

On September 30 each year starting in 2022, the state labor department will adjust the minimum wage rate to account for inflation, as measured by the change in the consumer price index for urban wage earners and clerical workers. The adjusted rate takes effect the following January 1.

PROVISIONS APPLICABLE TO AGRICULTURE

ADULTS — With some exceptions, agricultural workers 18 years of age and older are entitled to the state minimum wage, in accordance with the schedule outlined above.

Exception — The state minimum wage does not apply to anyone employed as a hand harvest worker and who (1) is paid on a piecework basis in an operation customarily recognized as a piecework operation in the local region, (2) commutes to the farm daily from his or her permanent residence, and (3) was employed in agriculture less than 13 weeks during the preceding calendar year.

MINORS — Agricultural workers under the age of 18 are subject to wage rates administratively set by the state labor department:

Workers 16 and 17 Years of Age — Sixteen- and 17-year-old farmworkers are entitled to the same minimum wage applicable to covered adult workers.

Workers Under Age 16 — Farmworkers below the age of 16 must generally receive no less than 85 percent of the adult minimum rate.

RECORDKEEPING — To facilitate enforcement, every employer subject to any provision of the Act must make and preserve a record of each employee's name, address, occupation, rate of pay, earnings for each pay period, and hours worked each day and each workweek.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or to discriminate in any other way against a worker who has made a complaint to the employer or to the enforcement agency regarding wages or other rights under the Minimum Wage Act, or has testified in a related proceeding.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). This agency is authorized to investigate any complaint alleging non-payment of the state minimum wage, and to take action to collect unpaid wages on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

O MINIMUM WAGE AND MAXIMUM HOURS LAW

STATUTORY CITATION: W. Va. Code §§ 21-5C-1 - 21-5C-11

GENERAL SUMMARY: With some exceptions, employers in West Virginia who have 6 or more non-exempt employees at any one separate, distinct and permanent business location during any calendar week must pay each of their employees wages at a rate not less than \$8.75 per hour. In the event the federal minimum wage exceeds the state rate, or if the employer has fewer than 6 employees, the federal rate (currently \$7.25 an hour) applies.

Employers subject to the minimum wage are required to keep a written record of the name and address of each employee and the employee's rate of pay, hours of employment, payroll deductions, and net pay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage and maximum hours law does not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

MINIMUM WAGE LAW

STATUTORY CITATION: Wis. Stat. §§ 104.001 – 104.12

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 272

GENERAL SUMMARY: Chapter 104 of the Wisconsin statutes establishes a minimum wage of \$7.25 an hour and generally requires most employers in the state to pay their employees no less than that amount for every hour on the job. Workers under the age of 20 who are in the first 90 consecutive days with their employer must receive no less than \$5.90 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE RATES — Without regard to age, agricultural workers are generally entitled to the state minimum wage of \$7.25 per hour.

ALLOWANCE FOR MEALS AND LODGING — Within the limits indicated below, agricultural employers are permitted to deduct the fair value of meals and lodging (if any) provided to their employees, but only to the extent that meals and lodging are accepted and actually received by the workers, that meals are adequate and well-balanced, and that living accommodations are decent and sanitary.

Meals — Farm employers may not deduct more than \$4.15 per meal, or \$87 per week for furnishing meals.

Lodging — The value of any lodging provided to farmworkers may not exceed \$8.30 per day or \$58 per week.

Exception — Room and board may not be deducted from the wages of a seasonal non-resident agricultural employee if the deduction would result in receipt of less than the prescribed minimum wage.

RECORDKEEPING — Like their counterparts in other industries, agricultural employers are required to make, and to retain for at least 3 years, payroll and related records on each employee. The record must include (1) the employee's name and address, (2) date of birth, (3) the start- and end-date of employment, (4) the start- and end-time of each workday and each meal period, (5) the total number of hours worked per day and per week, (6) the rate of pay and wages paid each payroll period, (7) the amount and purpose of each deduction from wages, and (8) the amount of production, if paid on other than a time basis.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such retaliation is regarded as a misdemeanor, punishable by a fine of \$25 for each offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). The Department has a duty to investigate the complaint of any worker claiming to have received less than the state minimum wage, and to enforce payment if the complaint is found to be valid. Each day that an employer employs a worker at less than the established minimum wage, the employer is subject to a civil money penalty ranging from \$10 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wyoming

MINIMUM WAGE LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-4-201 - 27-4-204

GENERAL SUMMARY: With some exceptions, Chapter 4, Article 2 of the state labor laws requires employers in Wyoming to pay each of their employees at a rate no less than \$5.15 per hour. A special minimum wage rate of \$4.25 an hour applies to workers who are under 20 years of age, but only during their first 90 consecutive days on the job.

Subject employers are required to keep a record of the name, address and occupation of each employee, the employee's pay rate, the amount paid to the employee each pay period, and the hours worked each day and each week.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law does not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

O FAIR LABOR STANDARDS ACT OF 1938 (HOURS AND OVERTIME)

STATUTORY CITATION: 29 USC §§ 201 – 219 RELATED REGULATIONS: 29 CFR Part 780

GENERAL SUMMARY: The Fair Labor Standards Act generally requires subject employers to pay each covered employee no less than 1¹/2 times the employee's regular pay rate for all employment in any workweek after 40 hours. Apart from restrictions on minors, there is no absolute limitation on the number of hours an employee may work in a week, as long as the worker receives time-and-a-half for all overtime hours or is excepted from the overtime pay provision.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EXEMPTION — The entitlement to receive overtime compensation *does not apply* to any worker employed in farming, by a farmer, or on a farm, or to employees engaged in the transportation and preparation for transportation of fruits and vegetables from the farm to the place of first processing or first marketing within the same state.

RELATED EXEMPTIONS —

Sugarcane and Sugarbeet Processing — The Act exempts for up to 14 weeks in a calendar year employees employed exclusively to provide services necessary and incidental to processing sugarcane or sugarbeets, and for up to 14 weeks in a consecutive 52-week period employees engaged in processing sugarbeets, sugarbeet molasses or sugarcane into non-refined sugar or syrup, provided in both cases they receive at least 1½ times their regular pay for hours worked in excess of 10 hours a day and 48 hours a week.

Cotton Ginning — The Act exempts for up to 14 weeks in a calendar year any employee employed exclusively to provide services necessary and incidental to ginning cotton in the gin, and for up to 14 weeks in any consecutive 52-week period any employee engaged in ginning of cotton in any county where cotton is grown in commercial quantities, provided in both cases that employees receive during those exempt periods at least 11/2 times their regular rate of pay after 10 hours in any workday and after 48 hours in any workweek.

Cotton Compressing and Cottonseed Processing — The Act exempts for up to 14 weeks in a calendar year any employee employed exclusively to provide services necessary and incidental to receiving, handling and storing raw cotton and compressing raw cotton when performed at a cotton warehouse or compress, and any employee providing similar services with respect to cottonseed in an establishment primarily engaged in receiving, handling, storing and processing of cottonseed, provided they are paid at least 1 1/2 times their regular wage after 10 hours a day and 48 hours a week.

Country Elevators — Workers at certain country elevators with no more than 5 employees are totally exempted from the Act's overtime requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alaska

○ ALASKA WAGE AND HOUR ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Alaska Stat. §§ 23.10.050 - 23.10.150

GENERAL SUMMARY: Among other provisions, the Alaska Wage and Hour Act establishes certain limitations on hours of employment by employees engaged in commerce or other business, or in the production of goods or materials. In general, employers may not employ workers for more than 40 hours a week or 8 hours a day, unless each such worker is compensated for the overtime at the rate of 11/2 times the worker's regular pay rate.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Wage and Hour Act does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

■ MINIMUM WAGE ACT OF THE STATE OF ARKANSAS (HOURS AND OVERTIME)

STATUTORY CITATION: Ark. Code §§ 11-4-201 - 11-4-220

RELATED REGULATIONS: Ark, Code R, 010.14-001 - 010.14-113

GENERAL SUMMARY: In addition to establishing an hourly wage floor, the Minimum Wage Act bars most employers of 4 or more workers from employing any such worker for more than 40 hours a week unless the worker receives overtime compensation at a rate not less than $1^{1}/2$ times the regular rate of pay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law — and thus the overtime pay protection — applies only to large agricultural establishments, excluding from coverage the following categories of employees:

- (1) Workers employed by an agricultural establishment which did not use more than 500 worker-days of farm labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, commute daily from their permanent residence to the farm where they work, and have been employed in agriculture less than 13 weeks during the preceding calendar year.
- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as employees over the age of 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). Employees who believe that they have not received the wages they are entitled to under the state minimum wage law may file a claim with the Department, which is authorized to investigate and take administrative or court action against the employer to collect the unpaid wages if a violation is found to have occurred. The Department also has authority to assess civil money penalties of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the Department of Labor, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, court costs and attorney's fees, and the worker may be entitled to an additional amount as liquidated damages.

California

₩ WAGE AND HOUR LAWS (HOURS AND OVERTIME)

STATUTORY CITATION: Cal. Lab. Code §§ 1171-1206

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11130 & 11140

GENERAL SUMMARY: Just as it may with respect to wages, the state industrial welfare commission has authority to investigate hours and working conditions in any trade, occupation or industry in California, and to adopt appropriate orders regulating hours of employment whenever existing conditions are found prejudicial to the health or welfare of any segment of the workforce. Employment of any worker for longer hours than those specified in a formally adopted order, or under conditions of labor contrary to such an order, is prohibited.

PROVISIONS APPLICABLE TO AGRICULTURE: The industrial welfare commission has adopted the following provisions governing hours and overtime in agricultural employment:

OVERTIME IN PLANTING, CULTIVATION, AND HARVEST OPERATIONS — In the planting, cultivation and harvest of agricultural crops, and in the preparation of cropland, no one 18 years of age or older (other than certain irrigators) may be employed more than 10 hours in any one day, or more than 6 days in any one workweek, unless the worker is paid 1½ times his or her regular rate of pay for each hour of work after 10 in any one day and for the first 8 hours of work on the seventh day, and 2 times the regular rate of pay for each hour of work after 8 on the seventh day. These same overtime rules apply to workers who are 16 or 17 years old and are not required by law to attend school.

The overtime provision does not apply to workers employed on 7 workdays in a particular week when the worker's total hours that week do not exceed 30 and the worker's hours on any one workday do not exceed 6.

NOTE ON RECENT AMENDMENTS — The overtime protections for workers employed in planting, cultivation and harvest operations were expanded significantly by legislation enacted in September 2016. The new provisions are being phased in, according to the following schedule:

Farms That Employ More Than 25 Workers —

Beginning January 1, 2019 — Planting, cultivation and harvest workers may not be employed for more than 9 ½ hours a day, or for more than 55 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2020 — Planting, cultivation and harvest workers may not be employed for more than 9 hours a day, or for more than 50 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2021 — Planting, cultivation and harvest workers may not be employed for more than 8 ½ hours a day, or for more than 45 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2022 — Planting, cultivation and harvest workers may not be employed for more than 8 hours a day, or for more than 40 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours, nor for more than 12 hours in one day unless they receive twice their regular pay rate for all hours over 12.

Farms That Employ 25 Workers or Fewer —

Beginning January 1, 2022 — Planting, cultivation and harvest workers may not be employed for more than 9 ½ hours a day, or for more than 55 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2023 — Planting, cultivation and harvest workers may not be employed for more than 9 hours a day, or for more than 50 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2024 — Planting, cultivation and harvest workers may not be employed for more than 8 ½ hours a day, or for more than 45 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2025 — Planting, cultivation and harvest workers may not be employed for more than 8 hours a day, or for more than 40 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours, nor for more than 12 hours in one day unless they receive twice their regular pay rate for all hours over 12.

OVERTIME IN ON-FARM PREPARATION OF CROPS FOR MARKET — In general, no worker 18 years old or over may be employed in on-farm packing operations for more than 40 hours in any workweek, unless the worker receives 11/2 times the regular rate of pay for all hours worked in excess of 40 that week. Workers are also entitled to time-and-a-half for up to 4 hours after the first 8 hours of work on any day, and for the first 8 hours of work on the seventh day of the workweek. Employers must pay double time for all hours in excess of 12 in any one day, and in excess of 8 on the seventh day.

MEAL PERIODS — Except when a work period of 6 hours or less will complete the day's work, all farm employers must permit their employees to take a meal break of at least 30 minutes after each work period of not more than 5 hours. If the employer requires a worker to remain on duty during a meal period, the arrangement must be in writing and the meal period must be counted as paid work time.

REST PERIODS — All farmworkers who are on the job for at least $3^{1}/2$ hours on a given day are entitled to 10 minutes of rest for every 4 hours of work time that day. The rest period counts as paid work time.

COMP TIME IN LIEU OF TIME-AND-A-HALF — The provision elsewhere in the state labor laws that permits employers to grant time off in lieu of paying overtime pay **does not apply** to workers employed in planting, cultivation and harvest operations, or employed in on-farm preparation of crops for market.

SPECIAL NOTES OR ADVISORIES

PIECE-RATE WORKERS — In accordance with a provision in the state wage payment laws, employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The required pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118). Representatives of this agency are expressly authorized to investigate employees' hours and working conditions, and to supervise the payment of unpaid overtime compensation owed any employee under these provisions. With the consent of the employee or employees involved in a claim, the Department may take civil court action to recover unpaid overtime compensation. Violation of a wage or hour order is a misdemeanor, punishable by a fine, jail term or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any employee who receives less than the legal overtime compensation applicable to his or her employment may take action to recover the unpaid earnings in a private civil suit. However, a worker's acceptance of payment of any sums found to be due on demand of the enforcement agency constitutes a waiver on the worker's part of the private right to sue.

WORKING HOURS LAW

STATUTORY CITATION: Cal. Lab. Code §§ 510-558.1

GENERAL SUMMARY: The state labor laws regulating working hours provide that 8 hours of labor constitute a day's work, unless otherwise agreed to by the parties to a contract. Employees covered by this law are entitled to receive 1¹/2 times their regular rate of pay for all hours worked in excess of 8 hours in one day and 40 hours in one workweek, and twice their regular rate of pay for work in excess of 12 hours in any one day and after 8 hours on the seventh day of a workweek.

Likewise, every person employed in any non-exempted occupation is entitled to one day's rest from the job in a 7-day period, and employers may not compel their employees to work more than 6 days in 7. Covered employees who work more than 5 hours straight also generally have the right to a meal period of at least 30 minutes.

PROVISIONS APPLICABLE TO AGRICULTURE: At least until 2025, the full applicability to farmworkers of the overtime protections described here is overridden by the overtime provisions summarized in the previous entry. The day-of-rest and meal period provisions currently apply to virtually all farm employees.

PRIMARY ENFORCEMENT AGENCY - Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Colorado

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-6-101 - 8-6-119

GENERAL SUMMARY: Apart from its authority to assess the adequacy of wage rates in Colorado, the state labor department may also investigate hours and other terms of employment in any industry or occupation, and may subsequently establish maximum hours and overtime pay requirements applicable to such employment if the agency (or a wage board convened by the agency) finds existing working conditions inadequate or detrimental to the well-being of the workforce.

PROVISIONS APPLICABLE TO AGRICULTURE: Despite statutory authority to do so, the state agency has adopted **no standards** regulating hours in agricultural employment or requiring overtime pay for farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

STATE WAGE AND HOUR LAWS (OVERTIME)

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-76b - 31-76j

GENERAL SUMMARY: With certain exceptions, no employer in Connecticut may employ a worker for a workweek longer than 40 hours, unless the worker is paid no less than 1¹/2 times his or her regular hourly pay rate.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime pay provisions do not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Florida

GENERAL LABOR REGULATIONS (LEGAL DAY'S WORK)

STATUTORY CITATION: Fla. Stat. § 448.01

GENERAL SUMMARY: Florida's general labor regulations declare 10 hours of labor to be a legal day's work. In the absence of a written contract signed by the employer and the employee requiring a lesser or greater number of hours to be performed daily, a worker employed to perform manual labor of any kind by the day, week, month or year is considered to have performed a legal day's work when the worker renders 10 hours of labor. Any worker required by the employer to work more than 10 hours in a single day must receive extra pay, unless a written contract to the contrary has been executed.

PROVISIONS APPLICABLE TO AGRICULTURE: As are similarly situated non-agricultural workers, agricultural employees who perform manual labor and are compensated by the day, week, month or year are entitled to receive premium overtime pay for time worked in excess of 10 hours a day, unless specified otherwise in a written contract.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker claiming unpaid overtime compensation must take legal action against the employer through a private attorney or other legal service provider.

Hawaii

₩ WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-1 - 387-15

GENERAL SUMMARY: The state wage and hour law prohibits the employment of most workers in Hawaii for a workweek longer than 40 hours unless such workers are paid overtime compensation at a rate no less than $1^{1}/2$ times the regular rate of pay for every hour of employment in excess of the 40-hour limit.

PROVISIONS APPLICABLE TO AGRICULTURE

TOTAL EXEMPTION — The wage and hour law, and thus the overtime pay requirement, *does not apply* to any individual employed in agriculture for any workweek in which the worker's employer has fewer than 20 employees, or the worker is engaged in coffee harvesting.

PARTIAL EXEMPTION — An employer who is engaged in agriculture, or in the first processing, canning or packing of any agricultural commodity, is not required to pay overtime compensation for hours in excess of 40 in a workweek to any of its employees during any 20 workweeks selected by the employer in any yearly period commencing July 1. During those 20 weeks of exemption, however, the employer must pay overtime for hours in excess of 48 hours at the rate of $1^{\circ}/2$ times the covered workers' regular rate of pay.

FULL OVERTIME COVERAGE — Except with respect to coffee harvesters and during the 20 weeks during which such employers are exempt as outlined above, agricultural employers who employ 20 or more workers in a workweek are required to pay their workers in that workweek at least 1¹/2 times their regular pay rate for every hour of work in excess of 40.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). It is the duty of this agency to assure compliance with the overtime requirements of the wage and hour law. In that capacity, the Department is authorized to enter any workplace in the state to inspect payroll records, question workers, and take other steps to investigate specific complaints or suspected violations. Any worker who has not received overtime pay in accordance with these provisions may file a claim with any district office of the Department. Employers who fail to pay required overtime are liable to the employee or employees affected in the amount of the unpaid compensation, and, in the case of a willful violation, in an equal amount as liquidated damages. Such employers are also subject to criminal fines and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

Illinois

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 105/1 - 105/15

GENERAL SUMMARY: In addition to its minimum wage and anti-discrimination provisions, the Minimum Wage Law requires most employers with 4 or more employees to compensate each employee at a rate not less than $1^{\circ}/2$ times the worker's regular rate of pay for every hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision of the Minimum Wage Law does not apply to employers of agricultural labor with respect to agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

○ WAGES OF WOMEN AND MINORS ACT (HOURS AND OVERTIME)

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 125/0.01 - 125/17

GENERAL SUMMARY: As it may with respect to wage rates, the state labor department may investigate working hours and related employment conditions in most occupations in Illinois, and, among other remedies, may adopt regulations requiring overtime pay for women and minors in any covered occupation where investigation reveals evidence of oppressive and unreasonable wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wages of Women and Minors Act does not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

MINIMUM WAGE LAW OF 1965 (HOURS AND OVERTIME)

STATUTORY CITATION: Ind. Code §§ 22-2-2-1 - 22-2-2-13

GENERAL SUMMARY: With some exceptions, the Minimum Wage Law prohibits employers with 2 or more employees from employing a worker for a workweek longer than 40 hours unless the worker receives overtime pay at a rate not less than $1^{\circ}/2$ times the worker's regular pay rate for all hours in excess of 40 that week.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law, and hence the overtime requirement, does not apply to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kansas

○ MINIMUM WAGE AND MAXIMUM HOURS LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Kan. Stat. § 44-1201 - 44-1213

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law requires most Kansas employers to pay their covered employees no less than 11/2 times their regular hourly wage for every hour of employment in excess of 46 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.285 and 337.010

GENERAL SUMMARY: With various exceptions, the state minimum wage law provides that no employer may employ any worker for a workweek longer than 40 hours, unless the worker receives compensation for employment in excess of 40 hours at a rate not less than 1¹/₂ times the worker's regular hourly wage.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the state minimum wage law do not apply to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE PAYMENT LAWS (SEVENTH-DAY OVERTIME)

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.050 and 337.010

GENERAL SUMMARY: Among other worker protections, Kentucky's wage payment laws include a provision establishing an employee's right to overtime pay for work on the seventh day of the week under certain prescribed circumstances. This provision applies to agricultural workers to the same extent as most other classes of employees.

SPECIFIC TERMS AND CONDITIONS: Employers in the state who permit an employee to work 7 days in any one workweek must pay the employee time-and-a-half for hours worked on the seventh day, provided the employee has been permitted to work more than 40 hours during the workweek.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). This agency is charged with enforcement of the wage payment laws and may bring legal action against any employer to effect compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 664(3)

GENERAL SUMMARY: In addition to establishing an hourly pay floor for the state's workforce, the state minimum wage law makes it unlawful for most employers in Maine to require covered employees to work more than 40 hours in any one week, unless they receive 11/2 times the regular hourly pay rate for all work over 40 hours.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law, and hence the overtime pay requirement, does not apply to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Maryland

MARYLAND WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-401 - 3-431

RELATED REGULATIONS: Md. Code Regs. 09.12.41

GENERAL SUMMARY: The Wage and Hour Law generally requires, among other things, that subject employers pay their non-exempt employees a wage of $1^{1/2}$ times their usual hourly wage rate for any hours worked in excess of 40 during any workweek. With some exceptions, the overtime requirement applies to most employers in Maryland, and the right to overtime pay applies to most employees other than children under the age of 16 who are employed no more than 20 hours in a week.

PROVISIONS APPLICABLE TO AGRICULTURE

PREMIUM OVERTIME — A farm employer who used more than 500 worker-days of agricultural labor in each calendar quarter of the preceding calendar year must pay each covered worker overtime wages equal to $1^{1}/2$ times the worker's usual hourly wage rate, but only for any time worked in excess of 60 hours during any workweek.

EXCEPTIONS — Subject employers, as described above, are not obligated to pay overtime to workers in either of the following exempt classifications:

- (1) Individuals who (a) are employed as hand-harvest workers and paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (b) commute to the farm daily from their permanent residence, and (c) were employed in agriculture for less than 13 weeks in the preceding calendar year.
- (2) Workers 16 years of age or younger who are (a) employed as hand-harvest piece-rate workers in a recognized piecework operation, (b) employed on the same farm as their parent or a person standing in the place of their parent, and (c) paid at the same piece rate paid to workers over age 16 on the same farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Wage and Hour Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). Any non-exempt farmworker who is employed by an employer subject to the Wage and Hour Law and who does not receive overtime pay as required may file a wage claim with the Division. The agency must investigate the claim, and if the charge appears valid, may take action to collect the unpaid wages on the worker's behalf. In addition to civil liability, employers who violate the law's overtime provisions are subject to criminal prosecution and fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers have the option of bringing private suit against an employer for recovery of unpaid wages under the Wage and Hour Law, as an alternative to enforcement by the Division of Labor and Industry. A judgment in the plaintiff's favor may, in addition to the wages involved, include court costs and attorney's fees.

Massachusetts

○ MINIMUM FAIR WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, §§ 1A - 1B

GENERAL SUMMARY: The Minimum Fair Wage Law includes overtime provisions which generally forbid Massachusetts employers from employing anyone in a covered occupation for a workweek longer than 40 hours, unless the worker receives compensation at a rate not less than $1^{\circ}/2$ times the worker's regular rate of pay for every hour of work after 40 hours.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime requirement of the Minimum Fair Wage Law does not apply to farmwork, or to anyone employed as a laborer in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Michigan

○ WORKFORCE OPPORTUNITY WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.411 - 408.424

GENERAL SUMMARY: With certain exceptions, the Workforce Opportunity Wage Act entitles an employee who is covered by the federal minimum wage requirements to overtime compensation at no less than 1½ times the worker's regular rate of pay for all employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the Workforce Opportunity Wage Act do not apply to agricultural employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Minnesota

■ MINNESOTA FAIR LABOR STANDARDS ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Minn. Stat. §§ 177.21 - 177.35

GENERAL SUMMARY: The Minnesota Fair Labor Standards Act generally forbids employers in the state from employing anyone for a workweek longer than 48 hours, unless the worker receives compensation for each hour in excess of 48 hours at a rate at least 11/2 times the worker's regular rate of pay.

PROVISIONS APPLICABLE TO AGRICULTURE

OVERTIME PAY — Aside from the rather narrow exemptions outlined below, farmworkers in Minnesota must be paid time-and-a-half for employment in excess of 48 hours in any workweek.

EXEMPTIONS — The overtime requirement does not apply to:

- A farmworker who receives a salary (that is, the worker is not paid by the hour) and works on a farming unit or operation
 where no more than 2 such workers are employed.
- (2) A farmworker who receives a weekly salary (that is, the worker is not paid by the hour), and the salary is greater than the equivalent of 48 hours at the state minimum wage plus 17 hours at time-and-a-half. At the current minimum wage, this excludes any worker who receives a weekly salary of roughly \$698 or more on a large farm, or \$569 or more on a small farm.
- (3) A worker under 18 who is employed to perform hand field work when one or both of the worker's parents are also hand field workers.
- (4) A sugarbeet hand laborer employed on a piecework basis, provided the hourly equivalent of the worker's regular pay exceeds the applicable state minimum wage by at least 40 cents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Such violations are subject to a fine of from \$700 to \$3,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). Representatives of this agency are responsible for assuring employer compliance with the state Fair Labor Standards Act, and for that purpose are authorized to examine payroll records, books and other documents related to wages, hours and working conditions at any place of business or employment. The Department may investigate wage claims or complaints by any worker against an employer if failure to pay a wage may violate state law or an agency regulation. In addition to the unpaid wages involved, an employer who pays a worker less than the required minimum wage or overtime may also be liable to the worker for an additional equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, a worker may take private civil action to collect unpaid overtime, using legal counsel of the worker's own choice. A judgment against the employer may include court costs and attorney's fees.

Missouri

O MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.500 - 290.530

RELATED REGULATIONS: Mo. Code Regs. Title 8, §§ 30-4.010 - 30-4.060

GENERAL SUMMARY: No employer covered by the state minimum wage law may employ a worker covered by that law for a workweek longer than 40 hours unless the employee is paid at least 11/2 times his or her regular hourly pay rate for every hour of work over 40 that week.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the Minimum Wage Law **do not apply** to employees who are exempt from federal overtime requirements, and thus excludes agricultural workers from coverage (see entry, U.S. — Wages & Hours — Overtime Pay).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

O MONTANA MINIMUM WAGE AND OVERTIME COMPENSATION ACT (OVERTIME PAY)

STATUTORY CITATION: Mont. Code §§ 39-3-401 - 39-3-409

GENERAL SUMMARY: Under the Minimum Wage and Overtime Compensation Act, most employees are entitled to no less than 11/2 times their regular hourly rate of pay for all employment in excess of 40 hours in a workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision in the state minimum wage law does not apply to farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Nevada

○ WAGE, HOUR, AND WAGE PAYMENT LAWS (OVERTIME)

STATUTORY CITATION: Nev. Rev. Stat. § 608.018

GENERAL SUMMARY: Chapter 608 of the Nevada statutes includes an overtime provision which requires most employers in Nevada to pay 1'/2 times an employee's regular wage whenever the employee works more than 40 hours in any scheduled workweek, or more than 8 hours in any workday (unless, by mutual agreement, the employee works a scheduled 10-hour day for 4 calendar days each week).

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime pay provision does not apply to agricultural employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

○ NEW JERSEY STATE WAGE AND HOUR LAW (HOURS AND OVERTIME)

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56a - 34:11-56a30

GENERAL SUMMARY: For each hour of working time in excess of 40 hours in any week, the New Jersey State Wage and Hour Law entitles most workers to overtime pay of at least 11/2 times their regular hourly rate.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision does not apply to employees engaged in labor on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

STATUTORY CITATION: N.M. Stat. §§ 50-4-19 - 50-4-30

GENERAL SUMMARY: In addition to establishing a statewide wage floor, the Minimum Wage Act generally obliges employers in New Mexico to pay overtime compensation, at 1 ½ times the worker's regular hourly pay rate, for every hour an employee is required to work in excess of 40 hours in any week of seven days.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL WORKERS — The overtime provision of the Minimum Wage Act does not apply to agricultural workers.

COTTON GIN WORKERS — For an aggregate period of up to 14 weeks in any calendar year, the overtime provision also *does not apply* to any employer of workers who are engaged in the ginning of cotton in any county where cotton is grown in commercial quantities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

○ MINIMUM WAGE ACT (OVERTIME PAY)

STATUTORY CITATION: N.Y. Labor Law §§ 650 - 665

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 142

GENERAL SUMMARY: The Minimum Wage Act authorizes the state labor commissioner to appoint a wage board to investigate wages and working conditions in any occupational category, and to recommend adoption of rules regulating wages, overtime pay, piece rates, meal and lodging allowances, and other matters affecting wages and hours in the occupation or occupations under study. After an opportunity for public hearing, the commissioner has authority to issue a wage order implementing any or all of the board's recommendations.

PROVISIONS APPLICABLE TO AGRICULTURE: Because the Minimum Wage Act excludes workers employed in labor on a farm, the overtime pay requirements in the wage orders adopted by the labor commissioner do not apply to farmworkers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Division of Labor Standards, New York State Department of Labor, Albany, New York 12240.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Carolina

○ WAGE AND HOUR ACT (HOURS AND OVERTIME)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 – 95-25.25

GENERAL SUMMARY: In addition to establishing a minimum wage and other employment standards, the Wage and Hour Act generally requires subject employers to pay each covered employee at a rate not less than 1½ times the employee's regular rate of pay for every hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision in the Wage and Hour Act does not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

STATUTORY CITATION: N.D. Cent. Code §§ 34-06-01 - 34-06-22

RELATED REGULATIONS: N.D. Admin. Code 46-02-07

GENERAL SUMMARY: With some exceptions, Chapter 34-06 of the state statutes makes it illegal for anyone in North Dakota to employ workers for unreasonably long hours, and authorizes the state labor commissioner to investigate working conditions in any occupation and to adopt standards regulating working hours. Using that authority, the commissioner has issued an order requiring most employers to pay their employees at least 1'/2 times their regular rate of pay for all work time in excess of 40 hours in any one week.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision in the minimum wage and work conditions order **does not apply** to any worker engaged in an agricultural occupation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

○ MINIMUM FAIR WAGE STANDARDS LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Ohio Rev. Code § 4111.03

GENERAL SUMMARY: Besides establishing a statewide hourly pay floor, the minimum fair wage standards law requires most employers with gross annual sales of at least \$150,000 to pay their employees overtime compensation at a rate of $1^{\circ}/2$ times the regular wage for hours worked in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provision does not apply to workers employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

○ MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Or. Rev. Stat. §§ 653.010 - 653.269

RELATED REGULATIONS: Or. Admin. R. 839-020-0030

GENERAL SUMMARY: Chapter 653 of the state statutes contains provisions which authorize the state labor commissioner to establish maximum hours of work, overtime pay requirements, and minimum meal and rest periods in most industries and for most occupations in Oregon. Regulations adopted under that authority require most employers in the state to pay their workers no less than 1 1/2 times their regular rate of pay for all work time in excess of 40 hours a week.

The statute explicitly extends overtime protection to employees at any cannery, drier, or packing shed which is not on a farm, or which processes agricultural crops produced by more than one farming operation, requiring time-and-a-half for employment in excess of 10 hours a day. Piece-rate workers at such establishments must receive 1'/2 times the regular piece rate for all production performed after 10 hours in any one day.

PROVISIONS APPLICABLE TO AGRICULTURE

The provision authorizing administrative adoption of overtime compensation and other hour standards *does not apply* to the production or harvesting of agricultural crops, or to the on-farm packing, curing, canning, freezing or drying of crops produced on the same farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Pennsylvania

○ MINIMUM WAGE ACT OF 1968 (HOURS AND OVERTIME)

STATUTORY CITATION: 43 Pa. Stat. §§ 333.101 - 333.115

GENERAL SUMMARY: The Minimum Wage Act, aside from establishing an hourly wage floor, requires subject employers to compensate each employee at a rate no less than $1^{\circ}/2$ times the worker's regular hourly wage for overtime in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's overtime provisions do not apply to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

HOUR LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 271 – 299

GENERAL SUMMARY: Chapter 13 of the labor statutes governs working hours and related pay conditions in Puerto Rico, including, in part, the length of the workday and workweek, overtime compensation, employee meal periods, days of rest, and employer posting and recordkeeping duties. These provisions apply generally to both agricultural and non-agricultural employment, without distinction.

SPECIFIC TERMS AND CONDITIONS

WORKING HOURS — In all workplaces, 8 hours constitute a legal workday and 40 hours a legal workweek.

OVERTIME PAY — In general, an employer who permits a worker to work more than 8 hours on any workday or more than 40 hours in any workweek generally must pay the worker no less than 1½ times the worker's regular rate of pay for each hour of overtime; as used here, the term "regular rate of pay" means the applicable wage under the minimum wage law or whatever higher rate the worker receives from the employer during regular hours, without regard to the guaranteed income underwritten by the Commonwealth of Puerto Rico.

Exception — Through a written agreement between the employee and the employer, an alternate weekly work schedule may be established that allows the employee to complete a workweek of up to 40 hours, with daily shifts that may not exceed 10 hours per work day. But if the employee works more than 10 hours in a workday, the extra hours must be paid at a rate of $1^{1}/2$ times the regular pay rate.

MEAL PERIODS — An employer may not require employees to work more than 5 consecutive hours without a meal break of at least one hour; an employer and an employee may agree, in writing, to meal periods of no less than 30 minutes. Any authorized work during a meal period must be compensated at 11/2 times the worker's regular pay rate. The meal break does not apply to workers employed for no more than 6 hours on a given day.

DAY OF REST — Except for persons employed on a piecework basis, agricultural and most other workers are entitled to one day of rest for every 6 workdays. Any authorized work on the day of rest must be compensated at $1^{\circ}/2$ times the worker's regular pay rate.

POSTING — There must be a printed notice at each workplace specifying the length of the workday, as well as the start and end times of the workday and meal period. Moreover, in any agricultural establishment where persons are employed at differing hours during the week, the employer must post a notice stating the name of each worker and the worker's hours on each day of the week.

RECORDKEEPING — Every employer is required to make and preserve a record for each worker employed, showing the wages earned, the regular and overtime hours worked, and other prescribed information.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). In response to a complaint by a worker or on the agency's own initiative, representatives of the Department may inspect the payroll records of any employer in Puerto Rico in order to determine compliance with the hour laws. The Department is authorized to investigate claims for unpaid overtime and may order payment of damages as part of any settlement where an employer is found to have unlawfully withheld compensation for regular or overtime hours. The law also permits criminal prosecution for any such violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who does not receive full pay for regular or overtime hours consistent with these provisions may recover the unpaid sum, plus an additional equal amount as liquidated damages, in a civil suit against the employer. A judgment in the worker's favor may also include court costs and attorney's fees.

Rhode Island

○ RHODE ISLAND MINIMUM WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-12-1 - 28-12-25

GENERAL SUMMARY: Aside from its hourly pay guarantee, the Rhode Island Minimum Wage Act requires most employers to pay each employee not less than 1¹/2 times the regular hourly wage for each hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime pay provision of the Minimum Wage Act does not apply to anyone employed in agriculture, explicitly including greenhouse crops, fruit and vegetable crops, herbaceous crops, sod crops, viticulture, viniculture, floriculture, feed for livestock, forestry, dairy farming, aquaculture, the raising of livestock, fur-bearing animals, poultry and eggs, bees and honey, mushrooms, and nursery stock.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

MINIMUM WAGE LAW (HOURS AND OVERTIME)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 381 - 397

GENERAL SUMMARY: Apart from establishing an hourly pay floor, the minimum wage law requires many employers with 2 or more employees to pay each covered worker no less than $1^{1}/2$ times the worker's regular rate of pay for every hour of employment in excess of 40 hours in any workweek.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law, and hence the overtime provision, does not apply to individuals employed in agriculture.

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

○ WASHINGTON MINIMUM WAGE ACT (HOURS AND OVERTIME)

STATUTORY CITATION: Wash. Rev. Code § 49.46.130

GENERAL SUMMARY: With some exceptions, employers in the state of Washington may not employ anyone for a workweek longer than 40 hours unless the worker receives compensation at a rate not less than 1½ times the worker's regular pay rate for each hour of overtime.

PROVISIONS APPLICABLE TO AGRICULTURE: The overtime provisions of the Minimum Wage Act **do not apply** to individuals employed in the production, preparation for market, commercial canning, commercial freezing, or other commercial processing of any agricultural or horticultural commodity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

West Virginia

○ MINIMUM WAGE AND MAXIMUM HOURS LAW (MAXIMUM HOURS AND OVERTIME)

STATUTORY CITATION: W. Va. Code §§ 21-5C-1 - 21-5C-11

GENERAL SUMMARY: Apart from establishing a statewide minimum wage, Article 5C of the labor statutes prohibits employers who are not covered by the federal overtime provisions, and who have 6 or more employees at any one permanent business location, from employing anyone for a workweek longer than 40 hours, unless the worker receives compensation of at least 1¹/₂ times the worker's regular rate of pay for each hour of overtime.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage and maximum hours law, and hence the law's overtime protection, does not apply to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

○ GENERAL LABOR LAWS (HOURS OF LABOR AND OVERTIME)

STATUTORY CITATION: Wis. Stat. §§ 103.01 - 103.03

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 274

GENERAL SUMMARY: In manufacturing, trade and numerous other classes of establishments in Wisconsin, it is unlawful to employ any person, or permit a person to work, for a period of time deemed dangerous or prejudicial to the worker's life, health, safety or welfare. The state labor department is required to promulgate rules establishing maximum working hours, or restricting the time of day during which employees in distinct occupational or industrial classifications may be employed, to the extent necessary to protect the well-being of the workforce. For each employment classification for which hour standards are adopted, the state agency must set thresholds above which employers are obligated to compensate their employees at time-and-a-half.

PROVISIONS APPLICABLE TO AGRICULTURE: The regulations adopted by the state labor department requiring overtime pay for most Wisconsin employees in non-executive, non-administrative or non-professional positions, do not apply to employment in agriculture.

PRIMARY ENFORCEMENT AGENCY - Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

■ MIGRANT LABOR LAW (HOURS OF LABOR AND OVERTIME)

STATUTORY CITATION: Wis. Stat. §§ 103.93 - 103.935

GENERAL SUMMARY: Migrant workers in Wisconsin are covered by hour and overtime standards in the state's migrant labor law. The term "migrant worker" means any person who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to engage in seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

WORKERS EMPLOYED SOLELY IN AGRICULTURAL LABOR —

Maximum Hours — Except in an emergency, no migrant worker who performs only agricultural labor for a particular employer may be compelled by the employer to work, or be penalized for failing to work, for more than 6 days or 60 hours in any one week, or more than 12 hours in any one day.

Meal Periods — It is unlawful to employ any migrant worker for more than 6 hours straight without a meal period of at least 30 minutes' duration, unless the shift can be completed within one additional hour. Employers do not have to compensate workers for meal periods.

OTHER MIGRANT AGRICULTURAL WORKERS —

Overtime Pay on Sunday — A migrant worker who is not employed exclusively in agricultural operations for a particular employer is entitled to receive no less than 1'/2 times the worker's regular rate of pay for any hours worked on Sunday, unless the worker is allowed another day of rest in that calendar week.

Rest Periods — Each migrant worker not employed exclusively in agricultural labor must be provided a paid rest period of at least 10 minutes within each 5 hours of continuous employment.

Meal Periods — No migrant worker may be required to work for more than 6 hours straight without a paid or unpaid meal period of at least 30 minutes, unless the shift can be completed within one additional hour.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). Violations of the migrant labor law's hour and overtime standards may be reported to the Department, which must investigate each such complaint and take action to secure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

Connecticut

SUNDAY CLOSING LAW

STATUTORY CITATION: Conn. Gen. Stat. §53-302a

GENERAL SUMMARY: Unless specifically exempted, no person, firm or corporation may engage in work, labor or business — or employ others in work, labor or business — on Sunday. A violation of this provision is classified as an offense against public policy.

PROVISIONS APPLICABLE TO AGRICULTURE: The Sunday closing law does not apply to agricultural operations, including nurseries and dairies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - This provision is enforced by state and local law enforcement agencies, through prosecution in the criminal courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

O EIGHT HOUR WORK DAY ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 145/0.01 - 145/2

GENERAL SUMMARY: With some exceptions, the Eight Hour Work Day Act declares that on and after May 1, 1867, eight hours of labor between the rising and the setting of the sun constitute a legal day's work, where there is no special contract or agreement to the contrary.

PROVISIONS APPLICABLE TO AGRICULTURE: The Eight Hour Work Day Act does not apply to farm employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

ONE DAY REST IN SEVEN ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 140/1 - 140/9

GENERAL SUMMARY: The One Day Rest in Seven Act grants workers in Illinois at least one day of rest a week and daily meal periods.

PROVISIONS APPLICABLE TO AGRICULTURE

DAY OF REST — The section requiring most employers to allow workers at least 24 consecutive hours of rest in every calendar week *does not apply* to employment in agriculture.

MEAL PERIODS — As are most other classes of workers in the state, agricultural employees who work or are expected to work $7^{1/2}$ continuous hours or longer on a particular day are entitled to a meal period of at least 20 minutes, beginning no later than 5 hours after the start of the workday.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). The Department has explicit authority to enforce these provisions and to prosecute violations. An employer who fails to provide for or allow a meal period as required is subject to a fine of from \$25 to \$100 for each offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kentucky

MINIMUM WAGE LAW (LUNCH AND REST PERIODS)

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.355, 337.365 and 337.010

GENERAL SUMMARY: With no explicit agricultural exceptions, workers in the state have a right to a lunch break and compensable rest periods during working hours each workday.

SPECIFIC TERMS AND CONDITIONS: Employers must provide their workers with (1) a reasonable daily lunch break, no sooner than 3 hours and no later than 5 hours after the start of the workday, and (2) a rest period of at least 10 minutes during each 4 hours of work. The rest period must be treated as paid work time for hourly and salaried employees, and must be provided in addition to the regularly scheduled lunch break.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). The Department is authorized to investigate any complaint charging a violation of these provisions, and for that purpose may enter any place of employment, inspect payroll records and interview workers. A finding by the Department of a violation and any subsequent order for corrective action may be enforced in the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who has been denied lunch breaks or compensable rest periods on the job may enforce compliance directly, by filing a civil action against the offending employer.

Massachusetts

O PUBLIC SAFETY LAWS (SUNDAY CLOSING)

STATUTORY CITATION: Mass. Gen. Laws Ch. 136, §§ 5 - 6

GENERAL SUMMARY: Chapter 136 of the state statutes provides that whoever on Sunday does any manner of labor, business or work (other than works of necessity and charity) shall be punished by a fine ranging from \$20 to \$100 for a first offense, and a fine of between \$50 and \$200 for each subsequent offense.

PROVISIONS APPLICABLE TO AGRICULTURE: Among other exceptions, the prohibition of work on Sunday does not apply to the cultivation of land, the raising and harvesting of agricultural products, or the making of cheese and butter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

STATE LABOR LAWS (ONE DAY'S REST IN SEVEN)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 47 - 52

GENERAL SUMMARY: Except at the request of the employee, no employer may require any employee engaged in a covered commercial occupation to work on Sunday, unless the employee is allowed 24 consecutive hours off during the ensuing six-day period.

PROVISIONS APPLICABLE TO AGRICULTURE: The general requirement of one day's rest in seven does not apply to farm services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

STATE LABOR LAWS (MEAL PERIODS)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 100 - 102

GENERAL SUMMARY: With very few exceptions, no one may be required to work for more than 6 hours during a calendar day without a period of at least 30 minutes for a meal.

PROVISIONS APPLICABLE TO AGRICULTURE: The meal period requirement applies implicitly to agricultural workers and agricultural employers, to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Michigan

STATE LABOR LAWS (LEGAL DAY'S WORK)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.401 - 408.405

GENERAL SUMMARY: Under most circumstances, 10 hours per day constitutes a legal day's work in Michigan. An employer who requires a covered worker to labor more than 10 hours a day is compelled to compensate the worker at the regular rate of pay for all such overtime service.

PROVISIONS APPLICABLE TO AGRICULTURE: The legal day's work provision does not apply to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.
PRIVATE CIVIL ACTION — These provisions are enforceable only in the civil courts.

Minnesota

→ STATE LABOR LAWS (MIGRANT LABOR GUARANTEED MINIMUM HOURS)

STATUTORY CITATION: Minn. Stat. § 181.87

GENERAL SUMMARY: The state labor laws contain protections for out-of-state migrant workers recruited for seasonal agricultural labor in Minnesota, including guaranteed minimum hours of employment. As used in these provisions, the term "migrant worker" means an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

SPECIFIC TERMS AND CONDITIONS

GUARANTEED HOURS — Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in a calendar year must guarantee to each such worker a minimum of 70 hours' pay for work in any 2 successive weeks. If a worker's pay for the hours actually worked amounts to less than the minimum guarantee, the employer must pay the worker the difference within 3 days after the scheduled payday for the pay period involved. Payment for the guaranteed hours must be at the hourly wage rate, if any, specified in the employment disclosure required at the time of recruitment (see entry, Minnesota — Labor Contractors & Worker Recruitment — Recruitment Standards), or the federal minimum wage, whichever is higher.

PERIOD OF GUARANTEE — The pay guarantee applies for the minimum period of employment specified in the employment disclosure, beginning on the date on which employment is to commence.

REDUCTION OF GUARANTEED HOURS — When, due to weather or other uncontrollable forces, there is no work available for a period of 7 or more consecutive days during any two-week period after the commencement of work, the guarantee will be reduced by 5 hours a day for each such day, provided that each worker is paid the sum of \$5 for each such day.

TERMINATION OF EMPLOYMENT — Whenever a worker quits or is fired for cause prior to completion of the job for which the worker was hired, he or she is not entitled to any further guarantee of hours from that employer. If termination occurs before the end of the two-week pay period, the worker is not entitled to a guarantee for that period.

REFUSAL OR INABILITY TO WORK — If on any day for which work is offered a worker refuses to work, or is unable to work due to illness or disability, the employer may reduce the pay period's guarantee by the number of hours of work actually offered by the employer that day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$250, plus court costs and attorney's fees.

Missouri

O WAGE AND HOUR LAWS (LEGAL DAY'S WORK)

STATUTORY CITATION: Mo. Rev. Stat. § 290.010

GENERAL SUMMARY: On May 1, 1867, and thereafter, 8 hours is deemed to be a legal day's work in most trades and industries in Missouri.

PROVISIONS APPLICABLE TO AGRICULTURE: The 8-hour day does not apply to laborers in the service of farmers or others engaged in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Montana

CONSTITUTION OF THE STATE OF MONTANA (DAY'S WORK)

STATUTORY CITATION: Mont. Const. Art. XII, § 2

GENERAL SUMMARY: Article XII, Section 2 of the state constitution generally defines a regular day's work as 8 hours on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The constitutional provision for an 8-hour day does not apply to agriculture.

SPECIAL NOTES OR ADVISORIES

INTERPRETATION OF EXCLUSION — Although the state constitution excludes agriculture from the 8-hour day, questions regarding the scope of the term "agriculture" are resolved by the Commissioner of Labor and Industry. Such decisions may be reviewed by the state courts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.
PRIVATE CIVIL ACTION — This provision is enforceable only in civil court.

Nevada

WAGE, HOUR, AND WAGE PAYMENT LAWS (MEAL AND REST PERIODS)

STATUTORY CITATION: Nev. Rev. Stat. § 608.019

RELATED REGULATIONS: Nev. Admin. Code § 608.145

GENERAL SUMMARY: Unless exempted either individually or by regulation applicable to a defined category of employers, an employer who has more than one worker at any job site may not employ such workers for a continuous period of 8 hours without providing a meal period of at least a half-hour; no span of less than 30 minutes interrupts a continuous period of work for purposes of this provision. Likewise, each such worker who is employed for 3¹/₂ hours or more on any given day is entitled to a compensated rest break of 10 minutes for every 4 hours or fraction thereof on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The right to meal and rest periods extends to agricultural workers on the same terms as workers in all other industries in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). A worker who is denied a meal period or a paid rest break as required under these provisions may file a complaint with the Commissioner, who is authorized to prosecute for enforcement through the local district attorney.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

■ EMPLOYEE PROTECTIVE LEGISLATION (DAY'S WORK AND DAY OF REST)

STATUTORY CITATION: N.H. Rev. Stat. §§ 275:30 - 275:35

GENERAL SUMMARY: Chapter 275 of the state statutes contains provisions defining a day's work, granting employees a right to meal periods, and limiting employment on Sundays.

PROVISIONS APPLICABLE TO AGRICULTURE

DAY'S WORK — In all contracts relating to labor (including agricultural services), 8 hours is deemed a day's work, unless otherwise agreed to by the parties.

MEAL PERIODS — In general, no farm operator or any other employer in New Hampshire may require an employee to work more than 5 consecutive hours without a half-hour lunch or eating period.

MAKING UP LOST TIME — An employer may not require an employee in any occupation to work more hours in any one day than allowed by law, in order to make up time lost to a legal holiday.

SUNDAY WORK — The provision which generally prohibits forcing an employee to work on Sunday, unless the employee is allowed 24 hours off in the ensuing six-day interval, *does not apply* to employees engaged in farm services.

DAY OF REST — The provision requiring employers to post at the workplace a list of the employees who are required or allowed to work on Sunday, and to designate an alternative day of rest for those employees, *does not apply* to employees engaged in farm services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

MINIMUM WAGE ACT (MAXIMUM HOURS)

STATUTORY CITATION: N.M. Stat. § 50-4-30

GENERAL SUMMARY: A provision in the Minimum Wage Act makes it a misdemeanor for most employers in New Mexico to require an employee to work more than 16 hours in any one day of 24 hours, except in emergency situations.

PROVISIONS APPLICABLE TO AGRICULTURE: The 16-hour maximum day provision does not apply to farm and ranch workers whose duties necessitate working longer hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

O LABOR LAW (LEGAL DAY'S WORK)

STATUTORY CITATION: N.Y. Labor Law § 160

GENERAL SUMMARY: Article 5 of the state labor statutes includes a provision making 8 hours a legal day's work in most trades and occupations in New York, but permitting longer workdays as long as employees are provided with increased compensation for overtime hours.

PROVISIONS APPLICABLE TO AGRICULTURE: The legal day's work provision does not apply to workers engaged in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Pennsylvania

SEASONAL FARM LABOR ACT (HOURS OF LABOR)

STATUTORY CITATION: 43 Pa. Stat. § 1301.207

GENERAL SUMMARY: The wage and hour provisions of the Seasonal Farm Labor Act contain limitations on the working hours of seasonal farmworkers and guarantee such workers a right to meal or rest periods. The term "seasonal farmworker" includes any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

MAXIMUM HOURS — No seasonal farmworker may be compelled to work, or penalized for failing to work, for more than 6 days or more than 48 hours in any one week, or for more than 10 hours in any one day. Where a worker is employed by more than one employer on any day or in any week, the aggregate number of hours during which the individual may be required to work may not exceed 48 hours in any one week or 10 hours in any one day.

MEAL OR REST PERIODS — An employer of seasonal farm labor is prohibited from requiring a worker to work for more than 5 continuous hours without a meal or rest period of at least 30 minutes. No time span of less than a half-hour is deemed to interrupt a continuous period of work. The meal or rest break need not be treated by the employer as compensable work time.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). A person who has been compelled by a farm operator or other seasonal agricultural employer to work more than the prescribed maximum hours, who has been penalized for refusing to do so, or who has been denied a meal or rest period in violation of the Act, may file a complaint with the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina 8 8 1

SUNDAY LABOR LAWS

STATUTORY CITATION: S.C. Code §§ 53-1-5 - 53-1-160

GENERAL SUMMARY: With various and sundry exceptions, it is unlawful and deemed a public nuisance for anyone to engage in work or labor, or to employ others to engage in work or labor, on Sunday before the hour of 1:30 p.m.

PROVISIONS APPLICABLE TO AGRICULTURE: The Sunday labor laws do not apply to farming operations necessary for the preservation of agricultural commodities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by state and local law enforcement agencies, through prosecution in the criminal courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

U.S.

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (PAYMENT OF WAGES)

STATUTORY CITATION: 29 USC §§ §§ 1801 – 1872 RELATED REGULATIONS: 29 CFR Part 500, Subpt. C

GENERAL SUMMARY: In addition to its contractor registration, housing and transportation provisions, the Migrant and Seasonal Agricultural Worker Protection Act requires farm labor contractors, agricultural employers and agricultural associations to comply with certain prescribed wage payment procedures.

SPECIFIC TERMS AND CONDITIONS: Each farm labor contractor, agricultural employer and agricultural association that employs any migrant or seasonal worker must pay the wages owed to the worker when due, but in no case less often than every 2 weeks or semi-monthly. For each pay period, a contractor, employer or association which employs any such worker must provide the worker with an itemized written statement showing (1) the basis on which wages are paid, (2) the number of piecework units earned, if paid on a piecework basis, (3) the number of hours worked, (4) total pay period earnings, (5) the amount and purpose of each deduction from earnings, and (6) net pay.

SPECIAL NOTES OR ADVISORIES

JOINT RESPONSIBILITY — Generally, the workers in a farm labor contractor's crew are considered jointly employed by the farm labor contractor and the farmer who is using their labor, if the farmer has the power to direct, control or supervise their work or to determine pay rates and the method of payment. In the event that a farm labor contractor fails to comply with the disclosure, posting and wage payment requirements outlined above, the farmer is legally responsible for compliance.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. A worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). In response to a worker complaint or on its own initiative, Wage and Hour Division personnel may enter workplaces, inspect payroll records, and interview workers, contractors and employers. In the event a violation of the Act's wage payment provisions is confirmed, the agency has authority to order and supervise payment of unpaid wages, suspend or revoke a contractor's registration certificate, and impose money penalties on contractors, employers and associations found in violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

■ IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: In addition to paying prescribed wage rates, employers who utilize or seek to utilize the services of temporary foreign agricultural workers under the H-2A program must also observe certain procedural requirements in making wage payments to their U.S. and non-U.S. workers employed under an H-2A work contract.

SPECIFIC TERMS AND CONDITIONS

FREQUENCY OF WAGE PAYMENTS — Employers who use temporary foreign agricultural workers must pay both their foreign and U.S. workers at least twice a month, or more often if such is the prevailing practice in the area of employment. The wage payment schedule must appear in the contract.

WAGE DEDUCTIONS — Employers are permitted to withhold from a worker's pay only those deductions that are required by law or are otherwise reasonable, provided the non-mandatory deductions are spelled out in the contract. An employer may deduct the cost of providing the worker's transportation and daily subsistence expenses to the place of employment, but the full amount of the deduction must be refunded to the worker upon the worker's completion of 50 percent of the contract period.

HOURS AND EARNINGS STATEMENT — On or before each payday, the employer must provide each worker with written documentation showing (1) the worker's total earnings for the pay period, (2) the hourly wage or piece rate, (3) the hours of employment offered to the worker and the hours actually worked, (4) each deduction from the worker's pay and its purpose, and (5) the worker's daily piecework production if paid on a piecework basis.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072). It is the duty of the Wage and Hour Division to enforce compliance with the pay provisions and all other elements of the required work contract between H-2A employers and their foreign and U.S. workers. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010). It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the wage payment terms offered to the workers and other aspects of the associated job offers comply with statutory requirements.

Alaska

STATE WAGE CLAIM LAW

STATUTORY CITATION: Alaska Stat. §§ 23.05.140 - 23.05.280

GENERAL SUMMARY: Chapter 23.05 of the state statutes includes provisions regulating the payment of wages by the state's employers, implicitly including farm operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Unless an employer and employee agree to monthly pay periods under an annual contract, the employee may choose between monthly or semi-monthly pay periods.

FINAL PAY — When an employee is terminated by the employer, all compensation for the employee's services becomes due immediately and must be paid within 3 working days after termination, at the place where the employee is usually paid or at a location agreed on by the employee and the employer. When an employee resigns, payment is due on the next regularly scheduled payday that occurs at least 3 days after the employer received notice of the resignation.

If an employer fails to pay wages due within the 3-day timeframe, the employer may be required to pay the employee a penalty, in the amount of the employee's regular compensation from the time of demand to the time of payment, or for 90 days, whichever is less.

NOTICE OF WAGE PAYMENTS — At the time of hiring, an employer must give employees a written notice showing the day and place of payment and the rate of pay. Any change in these terms must be announced no later than on the payday before the change goes into effect.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842). A worker who has not received wages duly earned may submit a claim to the Wage and Hour Administration, which is required to investigate possible infractions and to take action to impose authorized penalties against employers found in violation. In enforcing these provisions, the agency may hold hearings to investigate wage claims, may subpoen a witnesses and records, and may refer cases to the state attorney general for civil prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE WAGE PAYMENT LAWS

STATUTORY CITATION: Alaska Stat. §§ 23.10.040 - 23.10.047

GENERAL SUMMARY: Chapter 23.10 of the state labor statutes imposes additional responsibilities on employers (implicitly including those engaged in agriculture) with respect to the payment of wages.

SPECIFIC TERMS AND CONDITIONS

PAYMENT AND DEPOSIT OF WAGES — Employers of workers performing labor in Alaska must compensate their employees in lawful U.S. currency or with negotiable checks or similar drafts. No wages or advances may be deposited in a bank or comparable institution without the voluntary authorization of the employee.

PAYMENTS TO BENEFIT FUNDS — If an employer agrees with an employee (or group of employees) to make payments to a health, medical, pension or other such fund for the benefit of the employees, the employer may not fail, without just cause, to make such payments. An employer who fails to make benefit payments when due is subject to a lien, in favor of each affected employee, on the employer's earnings and the property used in the operation of the employer's business.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by an apparent violation of these provisions should consult with a private attorney or public legal service provider regarding possible civil action against the employer involved.

Arizona

WAGE PAYMENT LAWS

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-350 - 23-361.02

GENERAL SUMMARY: Article 7 of the state labor laws regulates paydays, methods of payment, and withholding from wages by Arizona employers, implicitly including those engaged in farming and other agricultural activities.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must designate at least two days per month, not more than 16 days apart, as fixed paydays.

WAGE PAYMENTS — All wages due an employee on each regular payday must be paid on that day, in lawful U.S. currency or by negotiable check. Wages may be paid by deposit in an insured financial institution only with the employee's voluntary prior written consent, and in such cases the employee must receive a statement of earnings and withholding.

WITHHOLDING — No employer may withhold or divert any portion of a worker's wages unless the employer is authorized to do so by federal or state law, the employer has the worker's written authorization to do so, or there is a bona fide and reasonable dispute as to the amount of wages due.

TERMINATION — When an employee is discharged from employment, final wages due must be paid within 7 working days or the end of the next regular pay period, whichever is sooner. When a worker quits the job, final wages due must be paid no later than the next regular payday for the pay period during which the worker quits. If requested by the worker, final wages must be paid by mail.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515). Any worker who has not been paid in accordance with these provisions may file a claim with this agency, which is authorized to investigate and issue an order against the employer which has the same force and effect as a court judgment. The agency will act only on claims involving up to \$2,500 and only if the complaint is filed within one year of the accrual of the claim. The wage claim form may be downloaded from the agency's website, at http://test-az-ica.pantheonsite.io/forms/labor3303.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover an amount equal to three times the amount of the unpaid wages.

Arkansas

WAGE PAYMENT LAWS

STATUTORY CITATION: Ark. Code §§ 11-4-401 - 11-4-405 and §§ 11-4-301 - 11-4-306

RELATED REGULATIONS: Ark. Code R. 010.14-107

GENERAL SUMMARY: The Arkansas employment laws contain miscellaneous standards governing the payment of wages by employers in the state, generally including farm operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

SEMI-MONTHLY PAYMENT OF WAGES — Corporations doing business in the state and employing laborers for the transaction of their business must pay their laborers' wages semi-monthly.

MEDIUM OF PAY — It is unlawful for any employer to pay wages in any medium other than lawful money, check or direct deposit into the employee's account.

PAYMENT OF WAGES ON DISCHARGE — Whenever an employer fires or otherwise terminates an employee, with or without cause, the unpaid balance of the worker's earnings becomes due immediately. If the worker has not received final wages within 7 days, as a penalty for non-payment by the employer, the worker's wages continue to accrue from the date of discharge, at the same rate until paid. Such additional wages may not continue for more than 60 days, unless an action to recover the unpaid wages and penalty is commenced within that time.

PAYMENT BY SALE OF GOODS OR SUPPLIES — It is illegal for an employer to coerce or attempt to coerce an employee to purchase goods or supplies as payment of wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500). Any disagreement between a worker and employer regarding earnings or the payment of wages may be referred to the Department for investigation and resolution, provided the amount in question does not exceed \$2,000. If a worker's claim is determined valid and the worker lacks financial ability to pursue court action to recover wages from an employer who refuses to accept the Department's findings, the agency is authorized to take legal action against the employer on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

WAGE PAYMENT LAWS

STATUTORY CITATION: Cal. Lab. Code §§ 200-273

GENERAL SUMMARY: California's wage payment laws establish minimum standards regarding paydays and pay periods, termination pay, method of pay, withholding and deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS —

Agricultural Workers in General — Except for final payment on discharge or layoff, all wages earned by an agricultural employee are due and payable twice each calendar month, on days designated in advance by the employer as the regular paydays. Work performed from the 1st through the 15th day of the month must be paid between the 16th and the 22nd of that month; work performed from the 16th through the last day of the month must be paid between the 1st and the 7th of the following month.

Agricultural Workers Furnished Room and Board — When agricultural workers are boarded and lodged by the employer, wages are due and payable once each calendar month, on a day designated in advance by the employer as the regular payday. No two successive paydays may be more than 31 days apart, and payment must include all wages earned up to the regular payday.

Agricultural Workers Employed by a Farm Labor Contractor — Agricultural workers employed by a farm labor contractor or crew leader must receive their pay at least once a week, on a business day designated in advance by the contractor. Payment must include all wages earned up to and including the 4th day before such payday.

TERMINATION PAY —

Discharge or Layoff — Whenever an employer discharges a worker, wages earned and not yet paid are due and payable immediately. Workers who are seasonally employed in the curing, canning or drying of perishable fruits and vegetables and who are laid off must receive final pay within 72 hours.

Resignation — If an employee with no written contract for a definite period quits the job, the worker's wages are payable no later than 72 hours after resignation. Workers who give at least 72 hours' prior notice of their intention to quit are entitled to final pay at the time of quitting.

FORM OF PAYMENT — Wages are required to be paid in lawful currency, or by check or similar draft payable on demand in cash and without discount. Employers may not pay workers in scrip, coupons or other such medium redeemable in merchandise.

ITEMIZED PAY STATEMENTS — Every non-governmental employer must, at the time of each payment of wages or at least semi-monthly, provide each employee with an itemized written statement showing (1) gross earnings, (2) total hours worked, if compensation is based on an hourly wage, (3) all deductions from earnings, (4) net wages earned, (5) the dates of the period for which the worker is being paid, (6) the worker's name and Social Security number, and (7) the name and address of the employer. In addition, employers who pay wages in cash must make a permanent written record of the deductions made from their workers' wages and must safeguard the wage deduction data for at least 3 years.

PIECE-RATE WORKERS — Employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612. This agency is responsible for investigating reported or suspected violations of the wage payment laws and has authority to enter workplaces, interview workers and employers, and inspect payroll records. Any worker who has not received regular or final pay in accordance with these provisions may file a claim, available online at http://www.dir.ca.gov/dlse/HowToFileWageClaim.htm, or email DLSE2@dir.ca.gov.

After investigation and hearing, a finding by the Division that a wage claim is valid gives the employer 10 days after receipt of notice to pay the amount in question. Any employer who has the ability to pay but who willfully fails to pay wages due within the 10-day limit must pay *triple* the amount of any damages accruing to the worker as a result of the employer's failure to pay. Such employers are also subject to civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker aggrieved by an alleged violation of this law may take legal action in civil court to recover lost wages, interest, attorney's fees and court costs, using a private attorney or public legal service provider.

Colorado

WAGE PAYMENT LAWS

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-4-101 - 8-4-123

GENERAL SUMMARY: Article 4 of the state labor laws governs the payment of wages by Colorado employers, including farm operators, migratory field labor contractors and crew leaders.

SPECIFIC TERMS AND CONDITIONS

FORM OF PAYMENT — Employers and their agents are prohibited from paying wages in any medium other than cash or direct deposit, unless the check or draft used to pay wages is negotiable and payable immediately in cash, without discount. Earnings may not be paid in scrip or coupons redeemable in merchandise unless this form of pay is also immediately redeemable in cash, without discount.

PAY PERIODS AND PAYDAYS — Unless the employer and employee mutually agree on an alternative schedule, all compensation due (other than final wages at termination) must be paid no later than 10 days following the end of the regular pay period, which may not exceed one month or 30 days' duration, whichever is longer. With respect to agricultural workers for whom the employer furnishes board and lodging, earnings are payable for regular periods not exceeding one month, on paydays no later than 10 days after the close of each pay period.

FINAL WAGES AT TERMINATION — When employment is terminated by the employer, the worker's final wages are due and payable immediately. When an employee quits or resigns, final wages are due and payable on the next regular payday.

PAY STATEMENTS — At least once a month, or at the time of each payment of wages, every employer must provide each employee with an itemized written pay statement showing gross wages earned, all withholding and deductions, net wages earned, inclusive dates of the pay period, the employee's name and Social Security number, and the name and address of the employer.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441). It is the duty of this agency to respond to complaints of unpaid wages or other alleged violations of the wage payment laws, and to institute actions to recover unpaid wages and enforce penalties whenever violations are confirmed.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using public or private legal counsel, any worker who fails to receive wages, or who is otherwise aggrieved by an apparent violation of the state wage payment laws, may take civil action against the employer or other party at fault to recover damages. A worker who has filed a wage claim must terminate the Department's enforcement process within 35 days after the issuance of a determination, citation or assessment in the case in order to preserve the right to sue.

Connecticut

STATE LABOR LAWS (WAGE STATEMENTS)

STATUTORY CITATION: Conn. Gen. Stat. § 31-13a

GENERAL SUMMARY: Except in the case of an employee with respect to whom the employer is exempt from both recordkeeping and overtime pay requirements under the federal or state minimum wage law, all employers in the state must furnish each employee with a written statement at the time of each wage payment showing hours worked, gross straight-time and overtime earnings, itemized deductions, and net earnings.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as recordkeeping requirements under the state minimum wage law generally apply to agricultural employers to the same extent as to non-agricultural employers, farmworkers are entitled to receive the prescribed record of hours worked, wages earned and deductions at the time of each wage payment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). Workers who do not receive a wage statement at the time of payment in accordance with this provision may file a complaint with the Department, which is responsible for enforcing the state's labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATE WAGE PAYMENT LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-71a - 31-71i

RELATED REGULATIONS: Conn. Agencies Regs. §§ 31-60-1 - 31-60-16

GENERAL SUMMARY: These provisions regulate the frequency and format of wage payments in Connecticut and apply to all employers in the state, regardless of industry.

SPECIFIC TERMS AND CONDITIONS

FREQUENCY OF PAYMENTS — Employers must generally pay their employees weekly or bi-weekly, on a regular payday designated in advance. The payday may not be more than 8 days after the end of the period for which the payment is being made; if the regular payday falls on a non-workday, wages must be paid on the preceding workday.

PAYMENT AT TERMINATION — When an employee quits, the employer must pay the employee's wages in full not later than the next regular payday. When an employer terminates an employee, the employer must pay final wages not later than the next business day after termination.

WITHHOLDING PART OF WAGES — Employers are prohibited from withholding or diverting any part of an employee's wages unless (1) the employer is authorized to do so under federal or state law, (2) the employer has written authorization to do so from the employee, or (3) the deductions are for automatic contributions to a federally recognized retirement plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791). This agency is empowered to prosecute claims for unpaid wages and to assess the fines applicable to a violation of these provisions. Employers who violate any of these provisions may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the state labor department, workers may recover unpaid wages through civil court action, utilizing private legal counsel or a public legal service provider. In any such action, employees are entitled to recover twice the full amount of the unpaid wages, attorney's fees and court costs.

Delaware

WAGE PAYMENT AND COLLECTION ACT OF THE STATE

STATUTORY CITATION: Del. Code Title 19, §§ 1101-1115

RELATED REGULATIONS: Del. Admin. Code 16-1324 §§ 1.0-2.0

GENERAL SUMMARY: The Wage Payment and Collection Act regulates the frequency and method of wage payments in the state and places limitations on the withholding of wages by employers, both agricultural and non-agricultural alike. The Act also authorizes the state labor department to adopt administrative regulations governing wage deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — Employers in Delaware must pay their employees on regular paydays designated in advance, but in no case may paydays be less frequent than once during each calendar month. The end of the pay period for which payment is made on a regular payday may not be more than 7 days before the regular payday. If the regular payday falls on a non-workday, payment must be made on the preceding workday.

METHOD OF PAY — Wages must generally be paid in lawful U.S. money, by check, or by payroll debit card. Use of checks is allowable only if the employer makes suitable arrangements for cashing checks, without discount, at a bank or other business establishment convenient to the workplace, and payment using debit cards is subject to conditions spelled out in state regulations.

TERMINATION PAY — Whenever an employee quits or is laid off or discharged, final wages are due and payable on the next regular payday.

WITHHOLDING OF WAGES — An employer may not withhold or divert any portion of a worker's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for documented health care or medical services, without financial benefit to the employer, or (3) the employer has a signed authorization from the worker for deductions for a lawful purpose accruing to the worker's benefit.

WAGE STATEMENTS AND RECORDKEEPING — Every employer with more than 3 employees is required (1) to notify each employee in writing, at the time of hiring, of the wage rate to be paid and the day, hour and place of payment, and (2) to furnish each employee with a written statement at the time of payment showing the wages earned, the pay period, itemized deductions from earnings, and, for employees paid at an hourly rate, the total number of hours worked. In addition, such employers must safeguard all wage and hour records at their place of business for a period of at least 3 years.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200). On application to superior court, the Department is authorized to enter and inspect any workplace in the state, to examine and copy books and records, to question the employer and any employee, hold hearings, and take other steps to enforce the Act. Workers who have not been paid in accordance with the Act may file a complaint with the Department, which may bring legal action against the employer involved to collect unpaid wages or otherwise enforce compliance. In general, if an employer fails without reasonable grounds to pay an employee's wages as required, the employer is liable to the employee for liquidated damages in addition to the unpaid wages, in the amount of (1) 10 percent of the unpaid wages for each day (except Sundays and legal holidays) on which the failure continues, or (2) an amount equal to the unpaid wages, whichever is smaller.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages by filing suit against the employer in civil court, using a private attorney or a public legal service provider.

Georgia

GENERAL LABOR LAWS (PAYMENT OF WAGES)

STATUTORY CITATION: Ga. Code § 34-7-2

GENERAL SUMMARY: Most individuals, firms or corporations in Georgia that employ skilled or unskilled wage workers in manual, mechanical or clerical labor must make wage and salary payments in lawful U.S. money, by check, by electronic deposit to an account specified by the employee, or by credit to a payroll card account. Wage and salary payments must be scheduled no less frequently than twice a month.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage payment and payday provisions in the state labor laws do not apply to employers engaged in farming.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.
PRIVATE CIVIL ACTION — These provisions are enforceable only in civil court.

Hawaii

WAGE PAYMENT LAWS

STATUTORY CITATION: Haw. Rev. Stat. §§ 388-1 – 388-52

GENERAL SUMMARY: Chapter 388 of the Hawaii statutes prescribes certain minimum standards regarding paydays, payment of wages at termination, method of payment, withholding of wages, notices and pay statements. These provisions are applicable to all non-governmental employing entities, including farm operators and other agricultural establishments.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must pay all employees' earnings at least twice during each calendar month, on regular paydays designated in advance by the employer, unless a different arrangement is approved by the state enforcement agency or adopted by majority vote of the workers in a state-approved secret-ballot election. An employee's earnings are due and payable within 7 days after the end of each pay period.

FINAL PAY — Whenever an employer lays off or discharges a worker, with or without cause, the worker must receive final pay no later than the next regular business day following layoff or termination. A worker who quits or resigns is entitled to final pay no later than the next regular payday following termination, unless the worker gives at least one pay period's notice of intention to quit, in which case the employer must pay final wages at the time of termination.

METHOD OF PAYMENT — Employers are required to pay wages in lawful U.S. money, with checks convertible into cash on demand at full face value, by direct deposit to the worker's FDIC-insured bank account, or with a prepaid debit card; use of a debit card is subject to strict limitations. If a worker receives wages in the form of a check for which insufficient funds are available in the employer's account, the employer is liable for any bank overdraft charges or special handling fee which the worker may incur as a result of negotiating the check.

WITHHOLDING OF WAGES — No employer may deduct, retain or otherwise withhold any part of any compensation earned by a worker, except where required by federal or state law or a court order, or as authorized in writing by the worker. Certain deductions, however, are not lawful even with the worker's approval, including, among others, (1) fines, penalties, or replacement costs for breakage, (2) losses due to damage to property, and (3) expenses for medical or physical examination, if such examination is requested or required by the employer.

NOTICES AND PAY STATEMENTS — Among other notification requirements, employers must (1) notify employees at the time of hiring as to the rate of pay and the day, hour and place of payment, and (2) furnish each employee, on every payday, with a legible statement showing the employee's total gross compensation, the amount and purpose of each deduction, total net pay, the date of payment, and the pay period covered.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). The Department has the right to inspect and copy any of the employer records required under the wage payment provisions, to question employees, and to investigate other facts and conditions to determine whether an employer or other individual has violated any such provision. If a judgment obtained by the Department against an employer for non-payment of wages remains unsatisfied after appeal periods have expired, the Department may commence proceedings in state circuit court to compel the employer to cease doing business until the judgment has been satisfied. Employers who violate the wage payment laws are also liable for civil damages and subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-6(c)

GENERAL SUMMARY: In addition to minimum wage and overtime provisions, the state wage and hour law includes language requiring employers to provide covered employees with itemized written pay statements at the time of each payment of wages.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURE GENERALLY — Every worker who performs agricultural labor other than coffee harvesting, in any workweek in which the employer has at least 20 employees, must receive from the employer at every pay period a legible notice showing total hours worked, a breakdown of regular and overtime hours (if any), straight-time compensation, overtime compensation (if any), other compensation, total gross pay, the amount and purpose of each deduction, total net pay, the date of payment, and the pay period covered.

COFFEE HARVESTING — The wage and hour law, and thus the provision requiring pay statements, *does not apply* to agricultural workers in any workweek in which they are engaged in the harvesting of coffee.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). Any worker covered by the wage and hour law who does not receive a written pay statement at the end of a pay period, as required, may notify the Department, which is obligated to investigate the complaint and take action to assure the employer's compliance. Failure by an employer to provide required pay statements and other notifications is an offense punishable by fine, imprisonment or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against the employer to enforce these provisions, utilizing a private attorney or public legal service provider.

Idaho

STATE LIEN LAWS (CLAIMS FOR WAGES)

STATUTORY CITATION: Idaho Code §§ 45-601 - 45-621

GENERAL SUMMARY: Chapter 6 of the state lien laws regulates pay periods, method of pay, and the withholding of workers' wages, and prescribes a claims process for collecting unpaid wages and damages. These provisions apply to all employers and employees in the state, regardless of industry or occupation.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Every employer in Idaho must pay all wages due at least once each calendar month, on regular paydays designated in advance by the employer. In general, a designated payday may not be more than 15 days after the end of the pay period for which payment on that day is to be made. If the regular payday falls on a non-workday, payment must occur on the preceding workday.

METHOD OF PAY — Wages must be paid in lawful U.S. currency, by check drawn on banks where suitable arrangements are made for cashing at no charge to the employee, or by direct deposit to an account voluntarily selected by the employee.

WITHHOLDING OF WAGES — No employer may withhold or divert any portion of an employee's wages, unless the employer is required or authorized to do so by state or federal law, or the employer has written authorization from the employee to make such a deduction for a lawful purpose. For each pay period for which deductions from the worker's pay are made, the employer must provide the employee with an itemized statement of each such deduction and keep an accurate record thereof.

WAGE CLAIMS — Any worker with a claim for unpaid wages in an amount up to \$1,000 may request the state enforcement agency to take assignment of the claim in trust; the agency may then commence legal action on behalf of the worker to recover the unpaid wages and appropriate damages in court. A judgment in favor of the worker may include, in addition to the unpaid wages, reasonable attorney's fees and court costs, plus damages of up to three times the amount of unpaid wages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or in any other manner discriminate against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570). In pursuit of a wage claim or other suspected violation of these provisions, the Department may enter and inspect any workplace in the state, question employees, and investigate any matter deemed appropriate to determine if a violation has occurred. Likewise, agency personnel are authorized to hold hearings, subpoena witnesses and documents, and take depositions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — If the state labor department determines that it lacks jurisdiction over a wage claim, the claimant has the right to file the complaint in a civil suit, using a private attorney or public legal service provider.

Illinois

ILLINOIS WAGE PAYMENT AND COLLECTION ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 115/1 - 115/15

GENERAL SUMMARY: The Illinois Wage Payment and Collection Act regulates wage payments by most employers in the state (including farm operators and other agricultural establishments), prescribing standards related to pay periods, paydays, final compensation, deductions from wages, pay statements, recordkeeping and disclosures. The Act also establishes procedures for state-assisted collection of unpaid wages.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Employers in Illinois are generally required to pay their workers' wages at least twice a month. All wages earned by an employee during a semi-monthly or bi-weekly pay period must be paid no later than 13 days after the end of the pay period in which the wages are earned. Wages earned during a weekly pay period must be paid within 7 days of the close of the period. Workers paid daily should receive their wages on the same day they are earned, but in no case more than 24 hours later.

FINAL COMPENSATION — Every employer must, if possible, pay final compensation to a worker who quits, or is discharged or laid off, at the time of separation, but in no case later than the worker's next regularly scheduled payday.

MEDIUM OF PAY — Workers' wages must be paid (1) in lawful U.S. currency, (2) by check, redeemable upon demand and without discount at a bank or comparable institution readily available to the employee, (3) by direct deposit to a bank account of the employee's choosing, or (4) by a payroll card that meets strict state-prescribed requirements.

DEDUCTIONS — With very narrow exceptions, employers may not make wage deductions unless such deductions are required by law, intended for the benefit of the employee, executed in response to a valid wage assignment or wage deduction order, or made with the express written consent of the employee.

PAY STATEMENTS — Every employer is required to furnish each worker with an itemized statement of deductions made from the worker's pay for each pay period.

RECORDKEEPING — Employers must keep a record of the names and addresses of all employees and of the wages paid each payday.

DISCLOSURES AND POSTING — Employers must notify each worker, at the time of hiring, as to the rate of pay and the time and place of payment. Whenever any such condition changes, the worker must be notified thereof in advance. Employers must also keep posted at each regular place of business, at a location easily accessible to the workforce, one or more notices indicating the regular paydays and the place and time of payment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810). It is the duty of the Department to monitor employer compliance with the Act and to institute penalty actions when violations are documented. A worker who has not been paid all or any part of wages earned may file a claim with the Department, which must investigate the circumstances of the case and advise the claimant of its findings. The Department is authorized to accept assignment of wage claims and prosecute collection actions for persons financially unable to do so when such claims appear valid and enforceable in the courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker with a claim for unpaid wages may take legal action to collect the claim directly, using private counsel or a public legal service provider.

ILLINOIS WAGE ASSIGNMENT ACT

STATUTORY CITATION: 740 Ill. Comp. Stat. §§ 170/01 - 170/11

GENERAL SUMMARY: The Illinois Wage Assignment Act prevents creditors, in concert with employers, from collecting debts through wage assignments except under conditions and procedures prescribed in the Act, which protects agricultural workers to the same extent as their non-agricultural counterparts.

SPECIFIC TERMS AND CONDITIONS

WAGE ASSIGNMENT FORMAT — Among other limitations, no assignment of wages is valid unless it is made in a written instrument signed by the wage earner and identifying the worker, the employer, the amount of money loaned or the price of the goods sold, the interest rate to be paid, and the date payments are due.

DEMANDS BY CREDITORS — A demand by a creditor may not be served on an employer for a worker's wages under a wage assignment unless (1) there has been a default of more than 40 days in payment of the indebtedness involved and the default has continued to the date of demand, (2) the demand, in prescribed form, contains a correct statement as to the amount the worker is in default, and (3) not less than 20 days before serving the demand, a notice of intent to make the demand has been served on the worker and a copy has been sent by certified mail to the employer.

LIMITATION ON AMOUNTS — The amount of wages that may be collected under a lawful wage assignment for any workweek may not exceed the lesser of (1) 15 percent of the worker's gross earnings that week, or (2) the amount by which disposable earnings that week exceed 45 times the federal or state minimum wage, whichever is greater (at the current state minimum of \$8.25, that portion of net pay above \$371).

EXCEPTIONS — The provisions of the Wage Assignment Act do not apply to court-ordered withholding of income under various state laws providing for the support of a child or maintenance of a spouse.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is a misdemeanor for an employer to fire or suspend an employee because the employee's earnings have been subjected to assignment for indebtedness.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Any worker who has had debts collected through wage deductions which do not conform to the process described above should consult an attorney. A person who wrongfully serves a notice of intent to make a wage assignment demand, wrongfully causes such a demand to be served, or fails to release a demand is liable to the worker and the employer for damages.

Indiana

→ WAGE AND HOUR LAWS (WAGE PAYMENTS)

STATUTORY CITATION: Ind. Code §§ 22-2-4-1 - 22-2-8-3

GENERAL SUMMARY: With some exceptions, Chapters 4 through 8 of the state wage and hour laws require employers to pay workers' wages at least semi-monthly or biweekly if requested by a worker, restrict wage assignments and other deductions from pay, limit the sale of merchandise by employers to employees under certain conditions, and prescribe penalties for an employer's failure to pay workers for their labor.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYROLL PERIODS — The semi-monthly wage payment provisions *do not apply* to farmers and others engaged in the business of agriculture or horticulture.

WORKER-REQUESTED DEDUCTIONS — Any deduction from wages directed by a worker is regarded as an assignment of the worker's wages. No wage assignment is valid unless (1) the assignment is in writing, signed by the employee, revocable by the employee at any time, and agreed to by the employer in writing, (2) an executed copy of the wage assignment instrument is given to the employer within 10 days of its execution, and (3) the assignment is for the purpose of paying insurance policy premiums, documented loans made to the employee by the employer, assessments by an employee benefit plan, or similar authorized purposes.

ASSIGNMENTS TO WAGE BROKERS — Any person, firm or association (other than the wage earner's employer) that loans money to a wage earner on the security of a wage assignment is regarded as a wage broker, and such transactions are subject to the following limitations, among others:

Amount and Term of Assignment — A wage assignment by a wage earner to any wage broker is unenforceable, and may not be recognized by an employer, unless it is for a fixed portion of the worker's earnings over a period not exceeding 30 days immediately following the date of the assignment.

Interest — No wage broker may ask, demand or receive any compensation or interest in excess of 8 percent per annum for use of money advanced or loaned to any wage earner.

Spouse's Signature — A wage assignment by a married head-of-household to any wage broker is generally invalid and unenforceable without the signature of the wage earner's spouse on the assignment instrument.

Notice to Employer — No wage assignment is valid unless written notice, along with a copy of the assignment instrument, is delivered to the wage earner's employer within 10 days of its execution.

ASSESSMENT OF FINES — It is unlawful for an employer to assess a fine on any pretext against an employee and to collect such fine from the worker's wages.

SALE OF MERCHANDISE TO EMPLOYEES — It is illegal for employers to knowingly sell to any of their employees any merchandise or supplies at a higher price than the price at which the merchandise or supplies are sold to others for cash.

FAILURE TO PAY WAGES — An employer who fails to pay an employee his or her wages within 10 days after demand for payment is liable for the unpaid wages, plus a penalty of \$1 for each succeeding day, up to double the amount of wages due, plus a reasonable attorney's fee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655). A worker who has had an employer-imposed fine deducted from pay may report the violation to the Department, which is authorized to take legal action to enforce the prohibition against such practices on the worker's behalf. All other provisions summarized above are enforceable only through civil action by the worker, represented by private legal counsel or a public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

WAGE CLAIM LAW

STATUTORY CITATION: Ind. Code §§ 22-2-9-1 - 22-2-9-8

GENERAL SUMMARY: Article 2, Chapter 9 of the state labor laws prescribes procedures for payment of final wages upon a worker's termination from employment and establishes a process for resolving claims for unpaid wages. These provisions apply to employment in all industries and occupational classifications in Indiana.

SPECIFIC TERMS AND CONDITIONS

FINAL COMPENSATION — Whenever an employer terminates or suspends an employee, for whatever reason, the unpaid wages and other compensation are due and payable on the next regular payday for the pay period in which the separation occurs.

WAGE CLAIMS — Any worker who has not received full compensation for labor performed may file a claim for unpaid wages with the state labor department, provided the claim amounts to more than \$35 and less than \$6,000. The state agency is authorized to prosecute actions for the collection of any claim regarded by the agency as valid and enforceable in court.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655). In enforcing compliance with these provisions, the Department is required to investigate reported or suspected violations and may refer valid, enforceable wage claims to the state attorney general for civil action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who wishes to prosecute a wage claim on his or her own, or whose claim involves \$6,000 or more in unpaid wages, may bring legal action against the employer in civil court, using a private attorney or public legal service provider.

O DEPARTMENT OF LABOR GENERAL LAWS (EMPLOYER RECORDKEEPING)

STATUTORY CITATION: Ind. Code § 22-1-1-15

GENERAL SUMMARY: The statute establishing and governing the general operation of the state labor department requires most employers in Indiana to keep true and accurate records of the name, address and occupation of each employee, the employee's daily and weekly hours, and the amount of the employee's pay.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for the obligation to record the name, address and occupation of each worker employed, the general recordkeeping duty **does not apply** with respect to any worker employed in an agricultural capacity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Iowa

IOWA WAGE PAYMENT COLLECTION LAW

STATUTORY CITATION: Iowa Code §§ 91A.1 – 91A.14

GENERAL SUMMARY: The Iowa Wage Payment Collection Law establishes minimum statewide standards concerning employee pay periods, paydays, medium of payment, final wages, wage deductions, and wage statements, applicable to most agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — With few exceptions, employers must pay all wages due at least monthly, semi-monthly or bi-weekly, on regular paydays of consistent intervals designated in advance by the employer. A payday may not be more than 12 days (excluding Sundays and legal holidays) after the end of the pay period for which wages are to be paid.

MEDIUM OF PAY — Wages must normally be paid in U.S. currency, or by check or comparable draft negotiable for U.S. currency on demand and at full face value.

FINAL COMPENSATION — Whenever a worker is suspended or terminated, the employer must pay the net amount of all wages earned by the worker up to the time of suspension or termination, no later than the next regular payday.

WAGE DEDUCTIONS — An employer may not withhold or divert any portion of a worker's wages unless such deduction is required or permitted under state or federal law or by court order, or the deduction is authorized in writing by the worker for a lawful purpose and for the worker's own benefit. In no event, however, may an employer make any deduction for, among other things, losses due to breakage or damage to property, as long as such losses are not attributable to the worker's willful disregard for the employer's interests.

WAGE STATEMENTS — On each regular payday, employers must provide each worker with a statement showing the hours worked, the wages earned, and any deductions made from the worker's earnings.

DISCLOSURES AND RECORDS — Under most circumstances, any employer who has paid a claim for unpaid wages and damages, or who has been assessed a civil money penalty by the state agency for a violation of this law, may be compelled by the agency (1) to notify its employees, in writing and at the time of hiring, as to the wages to be paid and the schedule of designated paydays, (2) to notify the workers, in advance, of any changes in wages or paydays, (3) to comply with worker requests for written compensation policies, and (4) to keep payroll records showing hours worked, wages earned, and deductions made with respect to each employee and to preserve such records for at least 3 years.

LIABILITY FOR UNPAID WAGES — If a farm labor contractor contracts with a seed or feed grain producer to rogue, detassel or hand-pollinate plants and fails to pay all his or her workers' wages, the seed or feed grain producer is also liable to the workers for the unpaid wages.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692). This agency is charged with investigating reported or suspected violations of the Wage Payment Collection Law, and accordingly is authorized to enter any place of employment to inspect payroll records, to question the employer and employees, and to take other appropriate steps to document whether or not a violation has occurred. In the case of any enforceable claim for unpaid wages, and with the consent of the complaining employee, the Division must take assignment of the claim and, if necessary, commence action in civil court to recover the unpaid wages and liquidated damages, provided the claim has been filed within one year after the date the wages became due and payable. In addition to liability for wages and damages, employers who violate these provisions are subject to civil money penalties imposed by the Division.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of the Wage Payment Collection Law has the option of taking action to recover unpaid wages and damages in a private suit, with legal counsel of the worker's own choosing.

MIGRATORY LABOR CAMP LAW (RENTAL CHARGES)

STATUTORY CITATION: Iowa Code § 138.17

GENERAL SUMMARY: Aside from its licensing and sanitation provisions, the migratory labor camp law puts certain restrictions on the deduction of housing costs from workers' wages.

SPECIFIC TERMS AND CONDITIONS: A rental charge or deduction from the wages of a migrant agricultural worker may not be made by a migrant labor camp operator or any other person for providing any housing facilities required under the labor camp law, unless the worker is fully informed of all such charges or deductions to be made prior to contracting for the employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Labor Camp Program, Bureau of Environmental Health Services, Iowa Department of Public Health, Des Moines, Iowa 50319 (515-281-8561). Any worker who has any housing-related charges deducted from pay without having been advised of the charges in advance of hiring should notify the Department or seek legal recourse through a private attorney or public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

WAGE PAYMENT LAWS

STATUTORY CITATION: Kan. Stat. §§ 44-313 - 44-327

GENERAL SUMMARY: Article 3 of the state labor laws contains provisions regulating pay periods, payment of final wages, wage deductions and withholding, and certain payment notifications. The wage payment laws are applicable to employers and employees in all industries and occupational classifications.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Every employer must pay workers' wages at least once each calendar month, on regular paydays designated in advance by the employer. The end of the pay period for which payment is made may not be more than 15 days before such payday.

MEDIUM OF PAYMENT — Unless a bank deposit system is approved for the respective employer by the state, wages must be paid to the worker in lawful U.S. money, by check or comparable draft negotiable in the local community, by direct deposit to a banking institution designated by the worker, or by a debit-type payroll card.

FINAL PAY — Whenever an employer discharges a worker or the worker quits, the employer must pay earned wages no later than the next regular payday.

DEDUCTIONS AND WITHHOLDING — No employer may withhold, deduct or divert any portion of an employee's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for health care or services, without financial gain to the employer, and are recorded as such in the employer's books, (3) the deductions are authorized in writing by the employee and are for a lawful purpose for the employee's own benefit, or (4) the deductions are for contributions to an approved employee retirement plan.

Exceptions — Provided there is a signed written agreement between the employer and the worker, employers are permitted to withhold any portion of a worker's wages to allow repayment of a loan made by the employer, to allow for recovery of a payroll overpayment, or to recover the cost of employer-provided items such as uniforms. Employers may also recoup such costs from a worker's final wages, as long as the employer provides written notice and explanation. However, amounts withheld under these circumstances must not result in reduction of a worker's wages to below the applicable federal or state minimum wage.

NOTIFICATIONS TO EMPLOYEES — At the request of any worker, the employer must (1) notify the worker in writing as to the rate of pay and the date and place of wage payments, (2) give the worker advance written notification of any change in these terms or conditions, (3) provide written notice of the employee benefits to which the worker is entitled, and (4) furnish the worker with an itemized statement of deductions made from the worker's wages for each pay period such deductions are made.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-296-5000, extension 1068). The Department has the duty and explicit authority to investigate alleged violations of these provisions, and may hold hearings and make workplace inspections in order to fulfill that responsibility. If the Department finds, after investigation and an opportunity for hearing, that a particular wage claim is valid, it may issue an order for payment and assess damages and interest against the offending employer. At the request of the claimant, the Department may take assignment of the claim in trust and take appropriate action to enforce payment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

EMPLOYEE PROTECTION LAWS (WAGE PAYMENTS TO MIGRANT WORKERS)

STATUTORY CITATION: Kan. Stat. § 44-126

GENERAL SUMMARY: The state labor laws include explicit provisions for the protection of migrant workers in Kansas, including a provision relevant to wage payments.

SPECIFIC TERMS AND CONDITIONS: Farm operators and other agricultural establishments which employ migrant workers, and the agents of such establishments who are responsible for the payment of workers' wages, must make wage payments directly to the individual worker. Payments for the worker's labor or services may not be made or entrusted to a crew leader under any circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workforce Services Division, Kansas Department of Commerce, Topeka, Kansas 66612 (785-296-3481). Violations of these provisions are treated as a misdemeanor criminal offense, and any crew leader convicted of a violation is barred from doing business in Kansas for a period of 2 years.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kentucky

WAGE PAYMENT LAWS

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.020, 337.055, 337.060, 337.070

GENERAL SUMMARY: The state wage payment laws set general standards for the payment of wages, applicable to virtually all employing establishments in Kentucky. In large part, these provisions regulate paydays, final compensation, wage withholding, and pay statements.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer doing business in Kentucky must generally pay each employee as frequently as twice a month, and each employee must receive all wages earned up to a day not more than 18 days prior to the date of payment. Any worker who is absent on the designated payday or for any other reason is not paid at that time must receive his or her earnings within 6 days after demand for payment.

FINAL PAY — Any worker who leaves or is discharged from employment must be paid all earnings in full no later than the next regular payday, or within 14 days after termination, whichever is later.

WITHHOLDING — No employer may make any deduction from a worker's wages unless the deduction is authorized by local, state or federal law or it is authorized in writing by the worker for a legitimate employee benefit. It is illegal under most circumstances, however, for an employer to make a deduction to cover fines, breakage, losses due to lost or stolen property, losses due to property damage, or other comparable occurrences.

PAY STATEMENTS — Like most other employers in the state, farm operators who employ 10 or more workers and make any deductions from their pay are required to furnish each such worker, at the time of payment, a statement showing the amount of each deduction and the general purpose for which the deduction is made.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524). This agency is charged with enforcement of the wage payment laws and may bring legal action against any employer to effect compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Workplace Standards, a worker who has not been paid in accordance with these provisions may take civil action against the employer directly, using private counsel or a public legal service provider.

Louisiana

WAGE PAYMENT LAWS

STATUTORY CITATION: La. Rev. Stat. §§ 23:631 - 23:641

GENERAL SUMMARY: Among other provisions, the state wage payment laws include minimum standards for the payment of final compensation and a prohibition on the assessment of fines against employees. These provisions apply to all occupational and industry groups, including agriculture.

SPECIFIC TERMS AND CONDITIONS

FINAL COMPENSATION — Upon the discharge or resignation of an employee, it is the duty of the employer to pay the worker's final wages on or before the next regular payday or no later than 15 days following the date of discharge or resignation, whichever occurs first. An employer who fails or refuses to comply with this requirement is liable to the worker for the lesser of (1) 90 days' wages at the worker's daily pay rate, or (2) full wages from the time the worker's demand for payment is made until the employer makes final payment, this in addition to the actual unpaid wages due.

ASSESSMENT OF FINES — Except where the employee willfully or negligently damages goods or the employer's property, it is illegal for an employer to assess any fine against an employee or deduct any sum as a fine from the employee's wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has not received final wages within 15 days after demand for payment may file suit to recover the unpaid wages, plus damages and attorney's fees. In the case of a laborer doing work on a plantation of a non-resident proprietor, a civil action may be filed against the proprietor for recovery of unpaid wages in the parish in which the labor was performed, as long as a copy of the petition or citation is served on the agent, overseer or manager of the plantation who is in the employ of the non-resident proprietor.

Maine

WAGE PAYMENT LAWS

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 621-A - 636

GENERAL SUMMARY: The state wage payment laws encompass procedural standards related to time of payment, payroll records, termination of employment, and certain unfair contracts.

PROVISIONS APPLICABLE TO AGRICULTURE

TIMELY AND FULL PAYMENT — At regular intervals not to exceed 16 days, every employer must pay in full all wages earned by each employee. Each payment must include all wages earned to within 8 days of the payment date.

RECORDS — Every employer must keep a true record of the date and amount of each wage payment to each employee, as well as a daily record of the time worked by each hourly employee.

TERMINATION OF EMPLOYMENT — A worker leaving his or her employment must be paid in full by the next regular payday, or not more than 2 weeks after the day on which demand for final payment is made of the employer, whichever is earlier. The employer may deduct any loan or advance against future wages only if such loan or advance is evidenced by a written statement signed by the worker.

UNFAIR AGREEMENTS — The ban on work agreements which permit a person to work without pay, or require the worker to return part of his or her wages to the employer (for any reason other than payment of a loan made to the worker, merchandise purchased from the employer, rent or utilities for employer-owned housing, or certain employee benefits), **does not apply** to work performed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333. Farmworkers who have not received pay in accordance with the provisions summarized above may file a wage claim with the Department. An employer found in violation is liable for the amount of unpaid wages, and any court judgment in favor of a worker or workers may include a reasonable rate of interest, an additional amount equal to twice the unpaid wages as liquidated damages, court costs, and attorney's fees. The offending employer is also subject to an administrative fine of up to \$500 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages by filing a civil suit against the employer directly, using a private attorney or public legal service provider.

Maryland

MARYLAND WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-501 - 3-509

GENERAL SUMMARY: The Wage Payment and Collection Law sets general guidelines for the payment of compensation and establishes a process for collecting claims for unpaid wages. These provisions apply without exception to all industries and occupations in the state.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — In general, every employer must establish regular pay periods and pay all employees at least once every two weeks or twice each month. If the regular payday falls on a non-workday, employees must be paid on the preceding workday. Employers must notify employees at the time of hiring as to their respective rates of pay and the regular designated payday.

MEDIUM OF PAY — Wages must be paid in lawful U.S. currency, by check payable at face value on demand in lawful U.S. currency, by direct deposit to a bank account specified by the employee, or with a debit card. Any fees applicable to a debit card must be disclosed to the employee in writing, in at least 12-point font.

PAY STATEMENTS — Every employer must furnish each employee with a statement of gross earnings and deductions for each pay period.

WAGE DEDUCTIONS — Under most circumstances, no employer may make any deduction from an employee's wages unless the deduction is authorized by law, formally ordered by a court, or expressly authorized in writing by the employee.

FINAL PAY — Upon termination of employment, a worker must receive all wages due, for all services performed, on or before the date the worker would have been paid for such services had the employment not been terminated.

WAGE CLAIMS — Any worker who has not received payment in accordance with these provisions may file a written complaint of alleged violation with the state. The state agency will normally investigate the claim and, if a violation is determined to have occurred, will attempt to resolve the pay issues involved informally. With the claimant's consent, the agency may institute legal action to collect sums unlawfully withheld from the worker, and if the court finds the employer failed to pay wages for reasons other than a bona fide dispute, the court may award the worker up to *three times* the amount of unpaid wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). Aside from liability for unpaid wages and damages, employers who violate the Wage Payment and Collection Law are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the state agency, after 2 weeks have elapsed from the date on which an employer is required to have paid the wages, a worker who has not received pay in accordance with the provisions outlined above may take legal action against the employer to collect unpaid wages directly, using a private attorney or a public legal service provider. If the court finds that the employer withheld wages in violation of these provisions and not as a result of a bona fide dispute, the court may award the worker up to *three times* the amount of the unpaid wages, plus reasonable attorney's fees and other costs.

Massachusetts

WAGE PAYMENT LAWS

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 148 - 159

GENERAL SUMMARY: The state wage payment laws generally require that employees be paid weekly and prescribe certain other conditions regarding paydays and pay periods, compensation at termination, method of payment, and wage deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — Like their non-agricultural counterparts, farmworkers generally must be paid at least once a month, but regardless of the length of the pay period, employers must pay wages earned by each worker to within 6 days of the date of payment (or within 7 days in the case of a worker employed 7 days a week).

FINAL COMPENSATION — A worker who leaves his or her job must receive final pay in full on the next regular payday, or on the following Saturday if there is no regular payday. Whenever a worker is discharged by the employer, final wages must be paid in full on the day of discharge.

PAY STATEMENTS — Each time wages are paid, employers are required to furnish their employees with a written statement showing the name of the employer, the name of the employee, the date, the number of hours worked, the hourly pay rate, and the amount of any deductions from pay.

METHOD OF PAYMENT — An employer who pays wages by check or draft must provide facilities or make arrangements for the cashing of payroll checks at a bank or elsewhere, without charge or discount.

DEDUCTIONS — Each time an employer makes a deduction from the wages of any worker for Social Security, health insurance, or any other benefit, the employer must give the worker a written statement showing the amount and nature of each such deduction at the time of payment. Employers are forbidden from penalizing a laborer for tardiness by deducting from wages a sum in excess of the proportionate wage which would have been earned during the time actually lost.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952). The Department is authorized to prosecute any violation of the wage payment provisions. Violators are subject to a criminal fine, imprisonment, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465).

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of the wage payment laws may, 90 days after filing a complaint with the Attorney General and within 3 years after the violation, take action in civil court against the employer directly, using a private attorney or public legal service provider.

Michigan

WAGE PAYMENT LAW

STATUTORY CITATION: Mich. Comp. Laws §§ 408.471 - 408.490

RELATED REGULATIONS: Mich. Admin. Code R. 408.9002 - 408.9036

GENERAL SUMMARY: The state wage payment law includes provisions governing pay periods, final compensation, method of payment, wage deductions, bonuses, employment fees, payroll records, and pay statements. These provisions apply to all non-federal employment, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS -

Farm and Non-Farm Employment in General — As a rule, employers must pay their employees bi-monthly, with wages earned during the first half of the calendar month paid on or before the first day of the succeeding calendar month, and wages earned during the second half of the month paid by the 15th of the month following. Regularly scheduled weekly pay periods are allowable, provided each wage payment occurs within 14 days of the end of the week in which the wages were earned. Likewise, an employer may establish a monthly pay period, as long as wages earned during the month are paid on or before the first day of the following month.

Harvest Employment — With respect to workers involved in the hand-harvesting of crops, all wages earned in a particular week must be paid no later than the second day after the close of the workweek.

FINAL COMPENSATION — Except for hand-harvest crop workers, farm and non-farm employees who voluntarily terminate their employment must receive final pay on the regularly scheduled payday for the period in which the termination occurs; workers engaged in the hand-harvesting of crops must be paid within one working day after they quit. An employer who discharges an employee from the job, regardless of occupation, must pay final compensation as soon as the amount can be determined.

METHOD OF PAYMENT — Wages must be paid (1) in U.S. currency, (2) by check or draft payable without discount in U.S. currency, (3) by direct deposit to a financial institution selected by the employee, or (4) with a debit card that complies with state-prescribed standards. Employers may not require an employee to pay any fees or costs incurred by the employer in connection with wage payments.

DEDUCTIONS FROM WAGES — Except for deductions that are required or expressly permitted by law or a collective bargaining agreement, an employer may not make any deduction from wages without the worker's written consent, obtained without intimidation. The cumulative amount of non-mandatory deductions may not reduce wages paid to a rate less than the state or federal minimum wage, even in the case of a worker not covered by the minimum wage laws.

BONUSES — It is illegal for an employer to withhold any portion of a worker's pay in the guise of a fringe benefit or "bonus" to be paid at termination, unless the withholding arrangement is agreed to in a written agreement signed by the worker without intimidation.

EMPLOYMENT FEES — An employer, or an agent of the employer (including a crew leader or labor contractor) having authority to hire or direct the services of the employer's workers, may not demand or receive a fee or other remuneration from a worker, directly or indirectly, as a condition of employment or continuation of employment, unless the person exacting the fee is licensed in Michigan as an employment agency.

PAYROLL RECORDS — In general, every employer must keep a record on each worker, documenting the worker's name, address, birth date, occupation or job classification, pay rate, total hours worked in each pay period, total wages paid each pay period, deductions from pay, and fringe benefits provided. Such records must be preserved for at least 3 years.

PAY STATEMENTS — Employers must generally furnish each employee, at the time of payment, with a statement showing the hours worked, the gross wages paid, the pay period for which wages are being paid, itemized deductions, and, for hand-harvest pieceworkers, the total number of units harvested.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). An employee who believes that his or her employer has violated any of these provisions may file a written complaint with the Department within 12 months after the alleged violation. The Department must investigate the charges and attempt to resolve the dispute informally if it appears the claim has merit. Failing a settlement within 90 days of filing of the complaint, the agency must issue a formal determination, and a decision in the worker's favor may include an order for payment of the unpaid wages, damages and civil money penalties. Violators may also be prosecuted on criminal misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Subject to the same 12-month time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.

Minnesota

STATE LABOR LAWS (WAGE PAYMENTS)

STATUTORY CITATION: Minn. Stat. §§ 181.01 - 181.172 and § 181.79

GENERAL SUMMARY: The state labor laws include wage payment provisions covering pay periods and paydays, wage deductions, wage assignments, pay statements, final payment of wages, and related subjects. These provisions generally apply equally to all agricultural and non-agricultural employment.

PROVISIONS APPLICABLE TO AGRICULTURE

PAY PERIODS AND PAYDAYS — In general, every worker performing labor or services which require changes in residence must receive earnings at intervals of not more than 15 days. Otherwise, employers must pay all wages due an employee at least once every 31 days, on a regular payday designated in advance by the employer.

WAGE DEDUCTIONS FOR LOSS OR DAMAGE — As a rule, no employer may make any deduction, directly or indirectly, for damage to property, or to recover any claimed indebtedness, unless the worker voluntarily and in writing authorizes the employer to do so and the authorization is made after the loss has occurred or the indebtedness has arisen.

WAGE ASSIGNMENTS — No assignment of wages to be earned in the future to secure a loan of less than \$200 is valid until the assignment is accepted in writing by the employer and is recorded with the city or town clerk. Also, a wage assignment made by a married worker is not valid without the written consent of the worker's spouse.

PAY STATEMENTS — At the end of each pay period, an employer must give each worker a written earnings statement that includes the worker's name, the hourly pay rate (if applicable), the total number of hours worked (unless exempt from the state minimum wage law), the gross pay earned, a list of any deductions made from the worker's gross earnings, the worker's net pay, and the ending date of the pay period.

FINAL COMPENSATION — When a worker performing labor which requires the worker to change residences leaves the job or is discharged, the employer must pay the worker's final wages within 24 hours; if not, the employer is responsible for the worker's living expenses while the worker awaits his or her earnings. In the case of migrant workers, wages earned but unpaid at the time the employee quits are due and payable within 5 days thereafter. For all other workers, earnings that are unpaid at the time the employee quits are payable no later than the next regularly scheduled payday.

PRIMARY ENFORCEMENT AGENCY – Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070). The Department is authorized to assist a worker in the collection of unpaid wages, and under certain conditions, the statutes make employers who fail to meet the time limits described in the wage payment provisions liable to the worker for both the unpaid wages and monetary penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Workers have an explicit right to take court action against employers for recovery of unpaid wages directly, utilizing a private attorney or public legal service provider.

■ STATE LABOR LAWS (MIGRANT LABOR WAGE PAYMENTS)

STATUTORY CITATION: Minn. Stat. §§ 181.85 - 181.91

GENERAL SUMMARY: The state labor laws contain protections for out-of-state migrant workers recruited for seasonal agricultural employment in Minnesota, including certain wage payment and employer recordkeeping requirements.

SPECIFIC TERMS AND CONDITIONS: Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in a calendar year must observe the wage payment and recordkeeping provisions outlined below. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

BI-WEEKLY PAY — A subject employer must pay wages due to each migrant worker at least once every 2 weeks. Final wages are due within 3 days of termination.

STATEMENT OF DEDUCTIONS — The employer must provide a written statement with every payment of wages clearly itemizing each deduction from the worker's wages.

RECORDKEEPING — With respect to each migrant worker recruited, the employer must maintain complete and accurate payroll records for each pay period, including the worker's name, daily hours worked, rate of pay, and the amount of wages paid. Records must be preserved for a period of at least 3 years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$250, plus court costs and attorney's fees.

Mississippi

STATUTORY CITATION: Miss. Code §§ 71-1-35 - 71-1-45

GENERAL SUMMARY: Chapter 1 of the state labor laws includes provisions governing payroll periods, medium of pay, and wage assignments.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYROLL PERIODS — The requirement that certain employers in Mississippi pay wages as often as every 2 weeks **does not apply** to agriculture or other non-specified industries.

MEDIUM OF PAY — The limitation on the use of trade checks, coupons and other such instruments by certain employers making wage payments *does not apply* to agriculture or other non-specified industries.

WAGE ASSIGNMENTS — In the agricultural sector, as elsewhere, the assignment of a worker's wages to a third party as security or payment for any merchandise is not binding on any employer, unless the merchant or creditor presents the employer with a copy of the assignment agreement or purchase contract between the worker and the merchant or creditor, and the employer agrees to the assignment arrangement in writing prior to delivery of the merchandise or consummation of the contract.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — These provisions are enforceable only in civil court, using a private attorney or public legal service provider.

Missouri

WAGE AND HOUR LAWS (WAGE PAYMENT)

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.080 - 290.130

GENERAL SUMMARY: Chapter 290 of the state statutes contains provisions related to pay periods and paydays, pay statements, wage rollbacks, and termination pay.

PROVISIONS APPLICABLE TO AGRICULTURE

PAY PERIODS AND PAYDAYS — Incorporated farming operations and other corporate employers in Missouri must generally pay the wages of their employees as often as semi-monthly, within 16 days of the close of each payroll period.

PAY STATEMENTS — At least once a month, corporate employers must furnish each employee with a written statement showing the total amount of deductions for the period covered.

NOTICE OF WAGE REDUCTION — Any corporation that intends to reduce the wages of its employees, or of any individual employee, must provide the affected worker or workers 30 days' notice of the planned change in pay.

FINAL WAGES — Whenever an employer, whether a corporate entity or otherwise, discharges a worker with or without cause, all wages earned and still unpaid become due and payable on the worker's last day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker may enforce these protections only through civil court action, using private legal counsel or a public legal service provider.

Montana

STATUTORY CITATION: Mont. Code §§ 39-3-101 - 39-3-216

GENERAL SUMMARY: Chapter 3, Parts 1 and 2 of the state labor laws include provisions regarding prior disclosure of wages and paydays, medium of pay, statements of deductions, and final wages.

PROVISIONS APPLICABLE TO AGRICULTURE

PRIOR DISCLOSURE — The general requirement that employers, on written demand, notify new or prospective employees of the wage rate to be paid, the basis for payment, and the date of paydays, *does not apply* to workers employed in agriculture.

MEDIUM OF PAY — All employers in Montana must pay wages (1) in lawful U.S. money, (2) by check convertible into cash on demand at full face value, or (3) by direct deposit if the employee has consented in writing to this mode of payment.

STATEMENT OF DEDUCTIONS — At the time of each payment of wages or salaries, employers must give each worker an itemized statement showing the amount and purpose of every deduction from the worker's pay. Where no deduction is made, the employer must provide the worker with a written statement to that effect.

FINAL WAGES — When a worker is discharged by the employer for cause, all unpaid wages are due and payable immediately upon separation. In any other case, the employer generally must pay final wages within 3 days of termination.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604. It is the Department's duty to respond to a worker's claim for unpaid wages, by investigating and attempting to collect the claim informally or by instituting legal action on the worker's behalf. In addition to liability for the wages involved, an employer found to have violated the wage payment laws may be assessed a penalty of up to 110 percent of the unpaid wages, payable to the worker. Violators are also subject to criminal prosecution by the local county attorney. In general, a complaint must be filed no later than 180 days after the unpaid wages were due.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor and Industry, a worker may sue for recovery of unpaid wages in a private civil action, using his or her own counsel. In addition to the unpaid wages and the penalty described above, a favorable judgment may also include court costs and reasonable attorney's fees.

Nebraska

NEBRASKA WAGE PAYMENT AND COLLECTION ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1228 - 48-1234

GENERAL SUMMARY: The Nebraska Wage Payment and Collection Act regulates paydays, wage deductions, and final pay in all private employment in the state, including agriculture. It applies to virtually all employers in Nebraska.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Each employer must pay all wages due on regular paydays designated by the employer, or agreed upon by the employer and the worker. An employer must give 30 days' written notice of any change in regular paydays.

WAGE STATEMENTS — On each regular payday, the employer generally must provide each employee with a statement showing, among other things, the number of hours worked, the wages earned, and any deductions made from the worker's gross pay.

WAGE DEDUCTIONS — The Act prohibits the deduction, withholding or diversion of any portion of a worker's wages unless required by state or federal law or court order, or unless authorized in writing by the worker.

FINAL PAY — Whenever an employer terminates a worker from the payroll, the worker's unpaid wages are due on the next regular payday, or within 2 weeks of the date of termination, whichever is sooner.

PAYMENT BY DEBIT CARD — Employers who elect to pay wages with a payroll debit card must comply with federal rules against compulsory use of electronic fund transfers as a condition of employment. Additionally, the employer must allow a worker at least one means of accessing withdrawals per pay period at no cost to the employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239). This agency may assist workers in trying to resolve unpaid wage claims. A form for that purpose is available on the Department's website, at dol.nebraska.gov/LaborStandards/WageComplaint/WageComplaintForm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — The Wage Payment and Collection Act is enforceable only in civil court. Any worker who has not received full pay within 30 days of the regular designated or agreed-on payday may file suit against the employer, through a private attorney or public legal service provider. If the court upholds the claim, the worker is entitled to recover the full amount of the unpaid wages, plus court costs and attorney's fees.

Nevada

₩ WAGE, HOUR, AND WAGE PAYMENT LAWS (PAYMENT AND COLLECTION OF WAGES)

STATUTORY CITATION: Nev. Rev. Stat. §§ 608.016 - 608.195

RELATED REGULATIONS: Nev. Admin. Code §§ 608.115 - 608.160

GENERAL SUMMARY: Chapter 608 of the state statutes contains, along with other subject matter, provisions regulating paydays, frequency of wage payments, payment of wages at termination, method of payment, payroll recordkeeping, and charges for employer-provided meals.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must establish and maintain regular paydays and must post notices, in at least 2 conspicuous places where they can be seen by the workers, indicating the regular paydays and place of payment.

FREQUENCY OF PAYMENT — All wages of workers in private employment are due and payable no less often than semi-monthly. Wages earned prior to the 1st day of any month are payable no later than 8:00 a.m. on the 15th day of that month, while compensation earned prior to the 16th are payable no later than 8:00 a.m. on the last day of the month.

PAYMENT AT TERMINATION — Whenever an employer discharges a worker, the worker's final wages are due and payable immediately. The unpaid compensation of a worker who quits must be paid no later than the next regular payday, or 7 days after the resignation, whichever is earlier.

METHOD OF PAYMENT — In general, wages must be paid (1) in lawful U.S. money, (2) by negotiable check payable without discount in lawful U.S. money, or (3) by electronic payment such as direct deposit or debit card. Electronic payment may be used only if the employee can obtain immediate payment in full, the employee receives at least one free transaction per pay period, the alternative location of payment is easily accessible, there are no other requirements or restrictions one would deem unreasonable or inconvenient, and the use of electronic payment is optional for the employee.

RECORDKEEPING — Every employer must maintain payroll records on each employee for each payroll period, including (1) gross cash wages, (2) deductions, (3) net cash wages, (4) hours employed per day and total hours for the pay period, and (5) the date of payment. Required payroll data must be furnished to the worker within 10 days of any such request.

MEAL CHARGES — The statutory provision which limits to \$1.50 per day the allowable deduction from wages for any meals provided to the worker by the employer *does not apply* to agricultural employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PRIMARY ENFORCEMENT AGENCY – Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890). A claim for unpaid wages, or a complaint charging any other violation of the wage payment and collection provisions, may be submitted to the Commissioner, who is obligated to assist in resolving the claim or complaint. The Commissioner is required to refer all violations to the respective district attorneys for prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Hampshire

STATUTORY CITATION: N.H. Rev. Stat. §§ 275:42 - 275:55

GENERAL SUMMARY: Chapter 275 of the state statutes includes provisions regulating the frequency of paydays, the medium of payment, final wages, wage withholding, and disclosure of pay conditions. With certain exceptions, the wage payment provisions apply to employers with at least one employee.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast to non-agricultural coverage, the state wage payment laws summarized below apply only to those farm operators and other agricultural establishments that employ 5 or more workers in farm labor.

PAY PERIODS AND PAYDAYS — Every covered employer generally must pay wages no less frequently than once a week, within 8 days (including Sunday) after the end of the week in which the work is performed, and on regular paydays designated in advance by the employer.

MEDIUM OF PAYMENT — Wages normally must be paid (1) in lawful U.S. currency, (2) by electronic fund transfer, (3) by direct deposit to a bank designated by the employee, (4) with a payroll or debit-type card, or (5) by check, drawn on a bank convenient to the place of employment and where suitable arrangements have been made to allow workers to cash their payroll checks at full value. If wages are paid using a payroll card, the employer must provide the employee at least one free withdrawal of any portion or all of the balance on the card per pay period, and none of the costs of the payroll card account may be passed on to the employee.

FINAL WAGES — Whenever an employer lays off or discharges a worker, the employer must pay the worker's final wages in full within 72 hours of termination. A worker who quits, on the other hand, is entitled to receive final pay no later than the next regular payday, or within 72 hours if the worker gave at least one pay period's notice of intention to quit.

WAGE WITHHOLDING — No employer may withhold or divert any portion of a worker's wages unless required or authorized to do so by state or federal law, or the employer has written authorization from the worker to make such deduction for a lawful purpose and for the worker's own benefit. Employers are obligated to furnish each employee with a statement of deductions from pay for each pay period in which such deductions are made.

DISCLOSURE — At the time of hiring, each worker must be notified by the employer as to the rate of pay and the day and place of payment. The employer must also notify each worker in advance of any changes in these terms.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). To enforce the state wage payment laws, representatives of the Department are authorized to enter and inspect workplaces, question employees, and review payroll records in connection with alleged or reported violations. Any worker who has not been paid in conformity with these provisions may file a claim or complaint with the Department, which must notify the employer involved and afford an opportunity for a hearing; a complaint must be filed no later than 36 months from the date the wages were due. If the Department finds that a violation has occurred, it may issue an order for payment or other appropriate action, enforceable in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, a worker may elect to recover unpaid wages in a private civil action, represented by an attorney of the worker's own choice. In addition to liability for the unpaid wages, an employer who willfully or without good cause fails to pay a worker may be judged liable for liquidated damages.

New Jersey

WAGE PAYMENT LAWS

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-4.1 - 34:11-14

GENERAL SUMMARY: The state wage payment laws regulate, among other compensation conditions, the time and mode of payment, pay at termination or suspension of employment, the withholding of wages, and pay-related disclosures. These provisions generally apply to all employment in New Jersey.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — As a rule, employers must pay workers' wages at least twice each calendar month, on regular paydays designated in advance by the employer. The end of the pay period for which payment is made on a regular payday may not be more than 10 working days before such payday.

MODE OF PAYMENT — Wages are required to be paid (1) in lawful U.S. money, (2) by check, provided suitable arrangements are made for employees to cash their checks conveniently and for the full amount for which the checks are drawn, or (3) by direct deposit to a federally- or state-chartered financial institution.

PAYMENT AT TERMINATION OR SUSPENSION — Whenever an employer discharges or lays off a worker, or when a worker quits or leaves employment for any reason, the employer must pay final wages no later than the next regular payday.

WAGE WITHHOLDING — It is illegal for an employer to withhold or divert any portion of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the amounts withheld are for contributions authorized in writing for an employee benefit or savings plan or for other lawful purposes.

DISCLOSURES — At the time of hiring, employers must notify their employees concerning the rate of pay and the schedule of paydays, and thereafter must notify employees in advance of any changes in pay rates or paydays. Employers are required to furnish each worker with a statement of any deductions made from the worker's pay for each pay period in which such deductions are made.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305). The Department is empowered to enter any workplace, question employees, inspect payroll records, and take related steps to ensure compliance with the state wage payment laws, either in response to a specific claim by a worker or in any case of a reported or suspected violation. An employer who willfully violates any provision of the wage payment laws is subject to a fine of from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Mexico

WAGE PAYMENT LAW

STATUTORY CITATION: N.M. Stat. §§ 50-4-1 - 50-4-12

GENERAL SUMMARY: The state wage payment law regulates paydays, wages at termination, and payroll recordkeeping, and establishes a state-administered process for receiving, investigating and enforcing wage claims and laborers' liens.

PROVISIONS APPLICABLE TO AGRICULTURE: The wage payment law does not apply to employers of agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

LABOR LAW (PAYMENT OF WAGES)

STATUTORY CITATION: N.Y. Labor Law §§ 190 - 199-A

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 190

GENERAL SUMMARY: Article 6 of the state labor statutes regulates the payment of wages, including the frequency of payments, the medium of pay, wage deductions, pay notifications, and recordkeeping.

PROVISIONS APPLICABLE TO AGRICULTURE

FREQUENCY OF PAYMENTS — Regardless of the industry, workers classified as manual laborers generally must be paid weekly and no later than 7 calendar days after the end of the week in which the wages are earned. When an employee is terminated, the employer must pay final wages on or before the next regular payday.

MEDIUM OF PAY — In general, workers' wages must be paid in cash. An exception allowing wage payments by direct deposit to a bank, with the written consent of the employee, *does not apply* to employees working on a farm not connected with a factory.

WAGE DEDUCTIONS — It is unlawful for an employer to make any deduction from the wages of an employee unless the deduction (1) is authorized by law, regulation or court order, or (2) is expressly authorized in writing by the worker and is intended to cover insurance premiums, health benefits, union dues, or similar purposes. Furthermore, an employer is forbidden from making any charge against wages or requiring a worker to make any payment as a separate transaction, unless the charge or payment is permitted as a wage deduction as described in the previous sentence.

NOTIFICATIONS — At the time of hiring, every employer must advise each new worker of the rate of pay and the regular designated payday. The worker must be notified of any change in the paydays prior to the time of the change.

PAY STATEMENTS — Every employer must furnish each employee with a statement with every payment of wages, listing gross earnings, deductions, and net pay. If requested by the worker, the employer must also provide an explanation of how such wages were computed.

RECORDKEEPING — Employers are required to maintain, and preserve for not less than 6 years, payroll records showing the hours worked, the rate or rates of pay, gross wages, deductions, and net pay for each employee.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365). Any worker who has not been paid in accordance with these provisions may file a complaint or claim with the nearest district office of the Department, which is obligated to investigate and attempt to resolve such controversies equitably. The Department may take assignment of any wage claim in trust and sue to collect it on the claimant's behalf. Employers who fail to pay their employees' wages are subject to civil money penalties, enforceable by the Department in court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing a claim with the Labor Department, a worker may elect to recover unpaid wages in civil court, using a private attorney or public legal service provider.

North Carolina

₩ WAGE AND HOUR ACT (WAGE PAYMENTS)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 – 95-25.25

RELATED REGULATIONS: 13 N.C. Admin. Code 12.0101 - .0906

GENERAL SUMMARY: The Wage and Hour Act prescribes the conditions under which wage payments in North Carolina are to be made and imposes certain pay disclosure and recordkeeping requirements on the state's employers. With certain exceptions, these provisions apply to all employment in the state, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Employers must pay their employees' wages on a regular payday. Pay periods may be daily, weekly, bi-weekly, semi-monthly, or monthly. Bonuses, commissions or other forms of compensation may be paid as infrequently as once a year if prescribed by the employer in advance.

FORM OF PAYMENT — In accordance with administrative rules, acceptable forms of payment include cash, money order, negotiable checks, and direct deposit into an institution whose deposits are federally insured or an institution selected by the employee.

FINAL WAGES — Workers whose employment is discontinued for any reason must be paid all wages due on or before the next regular payday, and any bonus or other such compensation is payable on the first regular payday after the amount due can be determined. Compensation of any kind may not be forfeited unless the worker has been notified, in the formal manner described below, of the employer's policy regarding loss or forfeiture of compensation.

WITHHOLDING OF WAGES — It is illegal for an employer to withhold or divert any part of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the employer has a signed prior authorization from the worker indicating the purpose of the deduction. Furthermore, the cash value of loss or damage to an employer's property may not be deducted from an employee's wages unless the employee receives at least 7 days' notice of the amount to be deducted.

STATEMENT OF DEDUCTIONS — For each pay period in which any deduction from wages occurs, the employer must provide the worker with an itemized statement of deductions.

NOTIFICATION — At the time of hiring, employers must formally notify their new employees as to pay rates, compensation policies, and the day and place for payment of wages. In addition, workers must have access to a written statement or posted notice of the employer's policies regarding holidays, vacation pay and comparable matters.

RECORDKEEPING — The provision that requires most employers to make and preserve a record of wage payments and deductions with respect to each of their employees *does not apply* to anyone employed in agriculture.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699 (919-807-2796; toll-free 800-625-2267). Designated representatives of the Department are authorized to enter any place of employment to gather facts essential to determining both the employer's coverage under the Act and the employer's compliance with the Act's applicable provisions. With respect to a subject employer, the Department may inspect the workplace, examine payroll records, question employees, and investigate other pertinent facts. A worker may submit a claim for unpaid wages to the Department, which must attempt to collect a valid claim through informal methods prior to exercising its power to take court action on the worker's behalf to recover the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Labor Department, a worker may take private civil action against the employer, using outside legal assistance. Regardless of whether the action is brought by the Department or directly by the worker, any such suit must be filed within 2 years of the date the claim arose.

North Dakota

WAGE COLLECTION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 34-14-01 - 34-14-13

GENERAL SUMMARY: North Dakota's wage collection law, applicable to all classes of employment in the state, regulates paydays, medium of pay, the payment of final wages, and withholding.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must pay employees' wages at least once each calendar month, on regular paydays designated in advance by the employer.

MEDIUM OF PAY — Wages must be paid (1) in lawful U.S. currency, (2) by check, written on a bank convenient to the place of employment, (3) by direct deposit, to a financial institution of the employee's choice, or (4) with a stored-value debit or ATM card issued by a federally insured bank or credit union. The use of a stored-value card is optional for the employer and the employee.

FINAL WAGES — Whenever an employer discharges a worker, or when a worker quits or resigns, any unpaid wages must be paid by the next regular payday.

WITHHOLDING — Employers may withhold from a worker's wages only those amounts (1) authorized to be withheld under state or federal law, or by a court order, (2) authorized in writing by the worker, (3) deducted for repayment of a documented advance made by the employer to the employee, or (4) deducted for damage, breakage or similar cause and authorized by the employee at the time of the deduction.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032). The Department is obligated to cooperate with any employee in the enforcement of a claim for unpaid wages lodged against an employer when it appears that the claim is valid, and when the claim is filed within 2 years from the date the wages are due. In investigating a wage claim, agents of the Department are authorized to enter any place of employment to inspect payroll records, and may hold related hearings as necessary. When authorized by the worker, the Department may take legal action against the employer to collect the claim, which may include interest on the unpaid wages and, under certain circumstances, up to three times the unpaid amount as punitive damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Ohio

● MISCELLANEOUS LABOR LAWS (SEMI-MONTHLY PAYMENT OF WAGES)

STATUTORY CITATION: Ohio Rev. Code § 4113.15

GENERAL SUMMARY: Every individual, firm or other entity doing business in Ohio must, on or before the first day of each calendar month, pay the wages earned by its employees during the first half of the preceding month, and on or before the 15th day of each month must pay all wages earned during the last half of the preceding month. This provision does not preclude the daily or weekly payment of wages, or the use of a different pay interval authorized by written contract or under law.

PROVISIONS APPLICABLE TO AGRICULTURE: The semi-monthly wage payment provision applies equally to all agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223). A worker who has not received wages within the timeframe described above may file a claim with the Department, which is authorized to investigate and assist in collection of a valid claim on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may enforce the right to payment of wages in conformity with this provision by initiating a civil suit against the employer directly. Where wages remain unpaid for 30 days beyond the regularly scheduled payday, or for 60 days beyond the date of filing of a wage claim, the employer is liable for liquidated damages, in addition to the unpaid wages, in an amount equal to 6 percent of the sum still unpaid, or \$200, whichever is greater.

Oklahoma

WAGE PAYMENT LAW

STATUTORY CITATION: Okla. Stat. Title 40, §§ 165.1 - 165.11

GENERAL SUMMARY: The state wage payment law generally establishes semi-monthly pay periods, dictates the use of itemized deduction statements, and prescribes the timeframe for receipt of final wages at termination. Virtually without exception, these provisions apply to all agricultural and non-agricultural employers in Oklahoma, and to all non-managerial employees.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS AND PAYDAYS — Employers must pay their workers' wages at least twice each calendar month, on regular paydays designated in advance by the employer. An interval of not more than 11 days may elapse between the end of the pay period and the ensuing payday.

MEDIUM OF PAY — Wages may be paid only (1) in lawful U.S. money, or (2) by check, other written draft or electronic deposit redeemable in U.S. money on demand and without discount.

STATEMENT OF DEDUCTIONS — With each payment of wages, employers must provide each worker with an itemized statement showing all deductions from the worker's earnings.

FINAL WAGES — Whenever a worker's employment terminates, the employer generally must pay final wages in full on the next regular payday for the pay period in which the work was performed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598). The Department may investigate any complaint of non-payment of wages or other violation of the wage payment law, and is authorized to take civil action on the claimant's behalf to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — A worker who has not been paid in conformity with the wage payment law may recover unpaid wages, plus liquidated damages, in a private civil suit against the employer, using legal counsel of the worker's own choice. A judgment in the worker's favor may include court costs and attorney's fees.

Oregon

WAGE PAYMENT AND COLLECTION LAWS

STATUTORY CITATION: Or. Rev. Stat. §§ 652.110 - 652.990

GENERAL SUMMARY: Chapter 652 of the state statutes contains numerous provisions governing the payment and collection of wages, including requirements related to the medium of pay, paydays and pay periods, final wages, deductions from pay, and itemized pay statements. These provisions generally apply to employers and employees without distinction between agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

MEDIUM OF PAY — In general, an employer may pay wages (1) by check or other non-cash instrument, payable without discount in lawful U.S. money, on demand, at a place of business in the county where the employee lives or works, (2) by direct deposit to a financial institution of the employee's choosing, or (3) using an ATM card, payroll card or other means of electronic transfer, provided the employee is able to (a) make an initial withdrawal of the entire amount of net pay without cost to the employee, or (b) choose some other payment method that involves no cost to the employee.

PAYDAYS AND PAY PERIODS — Every employer must establish a regular payday on which all employees are paid their earnings. Paydays may not be spaced more than 35 days apart.

WAGES AT TERMINATION — Whenever an employer discharges a worker or the worker quits, all unpaid wages become due and payable not later than the next business day.

Seasonal Farmworker Exception — A worker employed as a seasonal farmworker is generally entitled to final wages immediately. However, when termination occurs at the end of the harvest season and the worker is employed by a farmworker camp operator and lives in a licensed camp cost-free, final wages are payable by noon on the day after termination. A seasonal farmworker who quits the job without giving at least 48 hours' notice of intention to quit is entitled to receive final pay within 48 hours after termination or on the next regularly scheduled payday, whichever is earlier.

DEDUCTIONS — An employer is prohibited from withholding, deducting or diverting any portion of an employee's wages unless the deduction (1) is required by law, (2) is authorized in writing by the employee, payable to someone other than the employer, and recorded in the employer's books, or (3) is authorized under a collective bargaining agreement.

PAY STATEMENTS — Each time an employee is paid, the employer must furnish the worker with a written statement itemizing total earnings and each deduction.

ANNUAL PAY STATEMENT — At the request of an employee or former employee, any employer who uses 5 or more workers in any calendar month must, by March 10 of each year, give the employee a statement showing the total compensation paid during the previous calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a wage claim, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232. The Bureau has a statutory obligation to investigate and attempt to settle controversies between workers and employers regarding compensation, including allegations of unpaid wages. The Bureau is expressly authorized to sue employers to collect valid claims assigned in trust by workers for collection. In addition to unpaid wages, violators of the wage payment provisions are liable for civil penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: 43 Pa. Stat. §§ 260.1 - 260.12

GENERAL SUMMARY: The Wage Payment and Collection Law generally governs the compensation of employees in Pennsylvania, regulating paydays, disclosure of payment conditions, and payment of wages at termination. These provisions apply to all employment in the state, both agricultural and non-agricultural.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Except for wage supplements, every employer must pay the compensation earned by each employee on regular paydays designated in advance by the employer. Unless specified otherwise in a written employment contract, compensation is generally due and payable within 15 days of the end of the pay period in which it is earned. Bonuses or other wage supplements must be paid within 10 days after the end of the job or other due-date, or within 60 days of demand by the worker where no required time for payment was specified. Wages must be paid in lawful U.S. money or by check.

NOTIFICATION — It is every employer's duty to notify each worker at the time of hiring as to the time and place of payment, the rate of pay, and any fringe benefits or wage supplements to be paid. Workers are also entitled to advance notice of any change in these conditions. Such notifications may be provided by posting the required information at the employer's place of business.

FINAL WAGES — Upon termination of employment, for whatever reason, workers' final wages are due and payable no later than the next regular payday on which such earnings would otherwise be paid.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). The Department may investigate any complaint alleging a violation of the Wage Payment and Collection Law, and for that purpose agents of the Department may inspect payroll and related records and interview employees at any workplace in the state. Workers and their representatives may request the Department to take legal action on their behalf to collect any claim for unpaid wages, provided action is instituted within 3 years after such wages were originally payable. Apart from civil liability, employers who violate these provisions are also subject to criminal fines and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a claim with the Department of Labor and Industry, a worker who has not been paid any portion of his or her earnings may engage a private lawyer or public legal service provider to bring civil action against the employer directly for recovery of the unpaid amount. Furthermore, where wages remain unpaid without good cause for 30 days beyond the regular payday (or 60 days beyond the date of demand, where no regular payday applies), or where shortages in wage payments exceed 5 percent of gross wages payable on any two regular paydays in the same calendar quarter, the employer is generally liable to the worker for an additional amount as liquidated damages equal to 25 percent of the unpaid wages, or \$500, whichever is greater. A judgment in the worker's favor may also include attorney's fees.

MISCELLANEOUS LABOR LAWS (SEMI-MONTHLY PAYMENT OF WAGES)

STATUTORY CITATION: 43 Pa. Stat. §§ 251 – 253

GENERAL SUMMARY: Unless a different wage payment schedule is specified in the contract of hire, employers in Pennsylvania must pay their employees (other than those paid an annual salary) no less frequently than semi-monthly. The first payment must occur between the 1st and the 1sth day of each month, the second between the 1sth and the last day.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to the wages of all wage earners.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Violations of the semi-monthly wage payment provision may be reported to the Department, which has authority to bring charges against violators in the local courts. Conviction may lead to a fine of up to \$100 for each offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

SEASONAL FARM LABOR ACT (WAGE PAYMENTS)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.201 - 1301.207

GENERAL SUMMARY: The wage and hour provisions of the Seasonal Farm Labor Act regulate, among other matters, wage payment procedures for seasonal farm labor. The term "seasonal farmworker" includes any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Notwithstanding contrary provisions in the Wage Payment and Collection Act, every employer of seasonal farm labor must pay the wages of such workers on regular paydays designated in advance by the employer, but in no case more than 7 days after the end of the calendar week in which the wages were earned. Lawful U.S. currency or check are the only allowable means of payment.

FINAL WAGES — All unpaid earnings must be paid in full by the end of the next business day following termination of each job for which a seasonal farmworker was hired.

DEDUCTIONS FROM WAGES — Employers of seasonal farm labor are permitted to deduct or withhold from a worker's wages only (1) payroll-related taxes required to be deducted or withheld under state or federal law, (2) authorized union dues, (3) payments for employee benefits approved in writing by the worker, (4) reasonable charges for housing and meals provided by the employer, and (5) amounts for repayment of advances by the employer pursuant to a contract or prior agreement with the worker.

PAY STATEMENTS — At the time of payment, employers must provide each seasonal farmworker with a written statement showing the hourly or piecework wage rate, the number of hours worked, the units of work performed (if applicable), the amount of gross compensation, and any amounts deducted or withheld for any purpose whatever.

WAGE PAYMENT THROUGH A LABOR CONTRACTOR — An employer of seasonal farm labor may not permit a farm labor contractor to act as the employer's agent in the payment of wages unless the employer furnishes to each worker, and posts at an accessible location at the workplace, a statement showing the wage rates to be paid and other terms of employment agreed upon prior to hiring. Provided this condition is met, the employer may utilize a contractor as an agent for wage payment purposes, and the contractor becomes responsible for complying with the requirements outlined above.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Any seasonal farmworker who does not receive compensation in accordance with these provisions may file a complaint with the Department. If investigation of the complaint confirms a violation, the Department has authority to take action against the employer or labor contractor involved to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

WAGE PAYMENT LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 171 - 179

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, regulates the payment of wages.

SPECIFIC TERMS AND CONDITIONS

MEDIUM OF PAYMENT — Workers must receive their wages in legal U.S. money, whether (1) in cash, (2) by check, (3) by direct deposit or electronic transfer, in either case to a bank of the worker's choosing, or (4) by payroll credit card. The worker may choose among the methods of pay the employer makes available. In general, any costs associated with the use of checks or electronic methods of payment must be borne by the employer, not the worker.

RESTRICTIONS ON HOW TO SPEND WAGES — Employers are forbidden from imposing any restrictions or requirements on how or where their employees spend their earnings, and from dismissing a worker because the worker spent his or her wages in a certain place or in a certain way.

FREQUENCY OF PAYMENT — The wages of laborers of any kind must be paid no less often than every 15 days.

FINAL WAGES — When a worker quits or is dismissed, the employer must pay the worker's earnings no later than the next regular payday.

DEDUCTIONS — With few exceptions, it is unlawful for an employer to deduct or retain any part of a laborer's wages other than those amounts authorized by the worker for (1) payment of premiums to certain retirement or hospital service plans, (2) purchase of savings bonds, (3) payment of union dues, (4) repayment of loans advanced by the employer or made by certain institutions, (5) payment of the cost of meals, or repayment of advances for meals, consumed on the job by a worker in the agricultural phase of the sugarcane industry, (6) payment of premiums for certain types of insurance, or (7) charitable contributions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). A worker who has not been paid in accordance with these provisions or is aggrieved by any other alleged violation of the wage payment laws may file a complaint with the Department, which is obliged to investigate and attempt to resolve the matter to the worker's satisfaction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — To recover unpaid wages, a worker has the option of filing suit against the employer directly, using a private attorney or public legal service provider. Civil court action may not be instituted later than one year after the worker terminates employment with the employer involved.

Rhode Island

WAGE PAYMENT LAWS

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-14-1 - 28-14-31

GENERAL SUMMARY: Chapter 14 of the Rhode Island labor laws regulates the payment of wages, including such matters as paydays, medium of pay, pay at termination, earnings statements, and recordkeeping. The wage payment laws apply to all employment in the state, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Every employer must establish a regular payday, and workers are entitled to written notice of any change in the scheduled payday at least 3 paydays in advance. Workers must generally be paid weekly (unless compensation is fixed at a bi-weekly, semi-monthly, monthly or yearly rate), and each payday normally must fall within 9 days of the end of the payroll period in which the wages were earned.

MEDIUM OF PAY — Employers are not permitted to pay wages in any medium other than (1) in lawful U.S. money, (2) by check, convertible into cash on demand and at full face value, or (3) by electronic transfer to the employee's bank account or payroll card. Employers are permitted to pay wages by means of a payroll card only if the employee is able to make at least one withdrawal from the payroll card account per pay period without charge, up to the full amount of the net wages for the pay period.

FINAL WAGES — Whenever a worker quits the job or is discharged by the employer, the worker's final wages are payable on the next regular payday.

EARNINGS STATEMENTS — On every regular payday, the employer is obligated to furnish the worker with a statement showing the hours worked during the pay period and a record of the deductions made from the worker's pay and the basis or reason for each such deduction.

RECORDKEEPING — Every employer is required to keep a true and accurate record of the hours worked and wages paid to each employee for each pay period. Payroll records must be kept on file for at least 3 years after the date to which they pertain.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550). Authorized representatives of the Department have the right to enter any place of employment for the purpose of inspecting required employment records and otherwise checking compliance with the wage payment laws. At any time within 3 years from the time services were rendered, a worker who does not receive all or part of the wages earned for such services may file a claim with the Department, which is authorized to take action to collect it if it appears valid and enforceable. Employers found to have violated these provisions are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the state labor department, a person who has not received wages in accordance with these provisions may take action against the employer involved in civil court, using a private attorney or public legal service provider. In addition to recovering the amount of the unpaid wages, the worker may be entitled to compensatory damages and liquidated damages up to two times the amount of unpaid wages, plus attorney's fees and court costs. As is the case with an administrative claim, court action to recover unpaid wages is barred unless the claim is filed within 3 years after the date the wages were due.

South Carolina

WAGE PAYMENT LAW

STATUTORY CITATION: S.C. Code §§ 41-10-10 - 41-10-110

GENERAL SUMMARY: Chapter 10 of the state labor statutes governs the payment of wages in South Carolina, in part by establishing certain notification and recordkeeping requirements, prescribing allowable methods of payment, restricting deductions, and limiting the waiting time for final wages. Except with respect to domestic labor in private homes, which is exempt, the wage payment law applies to all employers with 5 or more employees at any one time during the preceding 12 months.

SPECIFIC TERMS AND CONDITIONS

NOTIFICATION — Either through use of individual written statements or by posting at the workplace, subject employers must notify each employee at the time of hiring as to the hours and wages agreed upon, the time and place of payment, and the deductions to be made from the worker's pay. Any change in these terms must be made in writing at least 7 calendar days before it becomes effective.

RECORDKEEPING — Employers must make, and retain for 3 years, a record of the name and address of each employee, the employee's wages each payday, and the deductions made from each payday's earnings.

PAY STATEMENTS — Every employer subject to the law is obligated to furnish each worker with an itemized statement showing the worker's gross pay and deductions for each pay period.

MEDIUM OF PAYMENT — In general, employers are not permitted to pay wages in any medium other than (1) lawful U.S. money, (2) negotiable warrant or check, or (3) direct deposit to a federally insured financial institution. If the employer uses direct deposit, the worker must be allowed at least one free withdrawal per pay period.

DEDUCTIONS — Employers may not withhold or divert any portion of an employee's wages unless required or permitted to do so by state or federal law, or pursuant to the notification described above.

FINAL WAGES — Whenever a worker is terminated from the payroll, for whatever reason, the employer generally must pay all wages due within 48 hours of termination or by the next regular payday, which may not exceed 30 days.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-4470). Upon receipt of a complaint from a worker alleging a violation of the wage payment law, the Department may question the employer, inspect payroll records, and take other appropriate action to investigate the complaint. If there is evidence of a violation, the Department must attempt to resolve the issues informally and may assess a civil money penalty against the offending employer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In case of an employer's failure to pay wages as required by these provisions, a worker may recover in a civil action an amount equal to *three times* the full amount of the unpaid wages, together with court costs and attorney's fees. Civil action to recover unpaid wages must be commenced within 3 years after the wages become due.

South Dakota

WAGE AND HOUR LAWS (WAGE PAYMENTS)

STATUTORY CITATION: S.D. Codified Laws §§ 60-11-8 - 60-11-24

GENERAL SUMMARY: Chapter 60-11 of the state statutes encompasses provisions regulating the payment of wages, including such matters as paydays, medium of pay, and wages at termination. The wage payment provisions apply to employers and employees in all industries and occupations.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — In general, every employer is obligated to pay all cash wages at least once a month, on regular paydays designated in advance by the employer.

MEDIUM OF PAY — Unless an employer and employee agree to another method of payment, wages must be paid (1) in lawful U.S. money, (2) by check, or (3) by direct deposit to the employee's bank account.

FINAL WAGES — When an employee quits or an employer discharges a worker from the payroll, the worker's final pay is due not later than the next regular payday, or as soon thereafter as the worker returns any of the employer's property which is in the worker's possession.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681). It is the duty of the Department to investigate any reported or suspected violation of the wage payment provisions, and for that purpose representatives of the Department may enter places of employment, inspect payroll records, and perform other investigatory functions. With respect to a valid wage claim not exceeding \$500, the agency may take assignment of the claim and bring civil action on the worker's behalf to collect it. Intentional refusal to pay wages in conformity with these provisions may also be prosecuted as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

STATUTORY CITATION: Tenn. Code §§ 50-2-101 - 50-2-113

GENERAL SUMMARY: Chapter 2, Part 1 of the state labor laws regulates wage payment practices in Tennessee, largely by prescribing duties and restrictions related to wage disclosure, pay periods, paydays, and medium of pay.

PROVISIONS APPLICABLE TO AGRICULTURE

WAGE DISCLOSURE — The provision which makes it a misdemeanor for employers to hire workers without first informing them of the wage rates to be paid, *does not apply* to farm labor.

FREQUENCY OF PAYMENT — To the same extent as their counterparts in other industries, farm operators and other agricultural establishments with 5 or more employees are required to pay their workers at least twice each month. Wages earned from the 1st through the 15th day of any month are due and payable no later than the 5th day of the following month; wages earned from the 16th through the last day of the month are payable by the 20th of the next month.

PAYDAYS — Every employer in the state must establish and maintain regular paydays, and must post conspicuously in at least 2 locations at the workplace a notice indicating the payday schedule.

MEDIUM OF PAY — Agricultural and non-agricultural employers alike are forbidden to pay wages in any medium of exchange other than (1) lawful U.S. money, (2) valid and negotiable check or draft, payable without discount in lawful U.S. money at an established place of business, (3) electronic transfer in lawful U.S. money, or (4) credit to a prepaid debit card, from which the employee is able to withdraw or transfer funds. Employers who use debit cards to pay wages must ensure that their employees can make at least one withdrawal or transfer per pay period for any amount contained on the card and without cost to the employee, and must give their employees the option to receive pay via electronic transfer instead.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). This agency is responsible for investigating claims of non-payment of wages in accordance with these provisions, and has authority to access payroll and other employment records to ascertain compliance. Violation of the provisions outlined above is a Class B misdemeanor, punishable by a fine of up to \$500, a jail term of up to 6 months, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Texas

PAYDAY LAW

STATUTORY CITATION: Tex. Labor Code §§ 61.001 - 61.095

RELATED REGULATIONS: 40 Tex. Admin. Code §§ 821.1 – 821.81

GENERAL SUMMARY: Chapter 61 of the Texas labor statutes includes provisions regulating paydays, wages at termination, methods of wage payment, and wage deductions, and prescribes an administrative procedure for claiming and collecting unpaid wages. The payday law applies to all forms of private employment in the state.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS — Farmworkers and other employees who are excluded from federal overtime pay requirements must receive their wages no less frequently than once a month; other workers must be paid at least twice a month. Employers are required to designate paydays in advance and post the schedule in the workplace.

FINAL WAGES — An employee who is discharged from the job is entitled to receive final pay, in full, no later than the 6th day after termination. An employee who quits or resigns must be paid final wages no later than the next regular payday.

FORM OF PAYMENT — Wages generally must be paid (1) in U.S. currency, (2) by check or other written instrument issued by the employer that is negotiable at full face value for U.S. currency, or (3) by electronic transfer. Electronic transfer may be used only if the employee maintains an account at a financial institution that qualifies for direct deposit.

WAGE DEDUCTIONS — An employer is not permitted to withhold or divert any part of a worker's wages unless the employer (1) is ordered to do so by a court of law, (2) is authorized to do so by state or federal law, or (3) has written authorization from the employee to deduct part of the wages for a lawful purpose.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027). A worker who does not receive his or her earnings in accordance with these provisions may file a wage claim with the Workforce Commission, which is authorized to investigate all such claims. Any such claim must be filed within 180 days after the wages claimed became due for payment. When a wage claim is determined to be valid and after all appeals are exhausted, the Commission has authority to take legal action in district court to recover unpaid wages and impose civil penalties for violations. Failure to pay wages owed is also a criminal offense, classified as a 3rd-degree felony.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Utah

WAGE PAYMENT LAW

STATUTORY CITATION: Utah Code §§ 34-28-1 - 34-28-19

RELATED REGULATIONS: Utah Admin. Code R. 610-3

GENERAL SUMMARY: Chapter 28 of the labor statutes regulates the payment of wages in Utah, by prescribing standards relating to paydays, medium of payment, wage deductions, and final compensation. With certain exceptions, the wage payment law applies to all private employers in Utah who have one or more employees.

SPECIFIC TERMS AND CONDITIONS

The wage payment law does not apply to employers and employees engaged in farm, dairy, agricultural, viticultural or horticultural pursuits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Vermont

WAGE PAYMENT LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 341 - 348

GENERAL SUMMARY: Chapter 5, Subchapter 2 of the state labor statutes sets general standards for the payment of wages, including provisions governing paydays, pay periods, and the method of payment. The wage payment law applies equally to both agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Workers must be compensated weekly, unless the employer gives written notice of intention to pay bi-weekly or semi-monthly. In any case, not more than 6 days may elapse between the end of a pay period and the corresponding date of payment.

FINAL WAGES — A worker who voluntarily leaves the job must receive final pay on the next regularly scheduled payday (or on the following Friday, if there is no regular payday). An employee who is discharged from employment must be paid in full within 72 hours after discharge.

METHOD OF PAYMENT — Under most circumstances, wages may not be paid in any form other than (1) in lawful money, (2) by check, (3) by direct deposit to a financial institution, or (4) credit to a payroll card account in a federally insured financial institution.

Wage payments by payroll card are permitted only after certain written disclosures are made to the employee, and only with the employee's consent. A payroll card account must allow the worker at least 3 free withdrawals, one of which must permit withdrawal of the entire balance, and none of the employer's costs associated with the account may be passed on to the worker.

Payment of wages using vouchers, scrip, store orders, or other non-cash medium is generally prohibited.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4204). A worker who has not received all wages due may file a complaint with the Department, and the agency is obligated to investigate the claim and try informally to effect payment if the claim is valid. If informal measures fail, the Department has authority to impose a civil penalty of up to \$5,000 against an employer who fails to pay wages as required and may enforce a final order for collection in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who does not receive his or her earnings in conformity with these provisions may recover twice the amount of any unpaid wages in a civil suit against the offending employer.

Virginia

WAGE PAYMENT LAW

STATUTORY CITATION: Va. Code §§ 40.1-29 - 40.1-33

GENERAL SUMMARY: Chapter 3, Article 2 of the Virginia labor statutes contains provisions governing wage payments in the state, applicable to all agricultural and non-agricultural employment.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — All employers must establish regular pay periods and, in general, must pay salaried personnel at least once a month and hourly workers at least twice a month or every 2 weeks.

FINAL WAGES — Upon termination of employment, a worker is entitled to final pay on or before the date the worker would have been paid for the services involved had the employment not terminated.

MEDIUM OF PAY — Employers are not permitted to pay wages in any form other than (1) in lawful U.S. money, (2) by check payable at face value in lawful U.S. money on demand, (3) by electronic fund transfer, in lawful U.S. money to an account at a financial institution designated by the employee, or (4) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds.

DEDUCTIONS — No employer may withhold any part of a worker's wages without the signed authorization of the worker, except for payroll or withholding taxes or in accordance with law. Furthermore, an employer may not compel a wage worker to sign any contract or agreement providing for the forfeiture of the worker's wages as a condition for hiring or continued employment unless authorized by law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104). Any worker who does not receive pay as required by these provisions, or who is subjected to any practice forbidden by these provisions, may file a complaint with the Department. After investigation and with the written consent of the worker, the Department may bring suit against the employer to enforce compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Washington

WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: Wash. Rev. Code §§ 49.48.010 - 49.48.900

GENERAL SUMMARY: Chapter 49.48 of the Washington statutes, which applies to all private employment in the state, regulates the payment of final wages, limits deductions from earnings, and prescribes procedures for the collection of unpaid wages.

SPECIFIC TERMS AND CONDITIONS

FINAL COMPENSATION — In general, when an employee is discharged or voluntarily withdraws from employment, the worker's final wages must be paid at the end of the established pay period.

DEDUCTIONS — It is unlawful for an employer to withhold or divert any portion of a worker's wages unless the deduction is (1) required by state or federal law, (2) specifically agreed upon by the worker and the employer, or (3) required for medical, surgical or hospital care and clearly documented as such in the employer's payroll records.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards, Apprenticeship and Crime Victims Division, Washington State
Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321). A worker who has not received all or
any part of his or her earnings may file a wage claim with the Department, which is authorized to take legal action to collect it
when the claim appears valid and the worker is unable to afford legal counsel to prosecute the claim in court. In investigating
complaints, representatives of the Department may examine payroll records, hold hearings, subpoena witnesses, and take related
enforcement action. Failure to pay wages or to comply with the wage payment provisions outlined above is a misdemeanor.

West Virginia

WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: W. Va. Code §§ 21-5-2 - 21-5-18

GENERAL SUMMARY: Article 5 of the West Virginia labor laws regulates the payment of wages, including such matters as pay periods, medium of payment, final compensation, and certain required notifications. The wage payment and collection law applies to both agricultural and non-agricultural employment alike.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Other than railroad companies, all employers in the state generally must pay their workers' wages at least twice a month, with no more than 19 days between paydays, unless a different schedule is provided for by special agreement.

MEDIUM OF PAYMENT — Wages may not be paid in any medium other than (1) in lawful U.S. money, (2) by check or similar draft drawn on one or more banking institutions, convenient to the place of employment and where arrangements have been made for cashing at full face value, (3) by deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution, or (4) by any method of depositing immediately available funds in an employee's demand account in a bank or credit union. Use of a payroll card must be agreed upon in writing by both the employer and the employee.

FINAL COMPENSATION — When an employer discharges an employee, the employer must pay the worker's final wages in full no later than the next regular payday. If the employer fails to adhere to this timeframe, the worker is entitled to recover the unpaid amount, plus two times the unpaid amount as liquidated damages.

NOTIFICATIONS — At the time of hiring, every employer must provide to each worker hired a written notice of the rate of pay and the day, hour and place of payment. Any change in these conditions must be announced in advance and in writing. There must be a summary of the wage payment and collection law posted at the workplace and accessible to the employees at all times.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890). Representatives of the Division of Labor may enter any place of employment in the state, question employees, examine payroll records and related documents, and take other enforcement action, either in response to a worker's complaint or on the agency's own initiative. At the request of a worker claiming unpaid wages, the Division is authorized to take legal action against the employer to collect the claim. Violation of the wage payment and collection law is also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — In lieu of filing an administrative claim with the Division of Labor, a worker whose wages have not been paid in accordance with these provisions may recover unpaid wages and damages, if applicable, by bringing suit against the employer directly, utilizing outside legal assistance. The court is authorized to award the worker reasonable attorney's fees if the worker prevails in any such action.

Wisconsin

■ WAGE PAYMENT, CLAIMS, AND COLLECTION LAW

STATUTORY CITATION: Wis. Stat. §§ 109.01 - 109.12

GENERAL SUMMARY: Chapter 109 of the Wisconsin statutes prescribes the timeframes under which employees in the state are entitled to receive their pay, and establishes administrative procedures for processing and collecting claims for unpaid wages.

PROVISIONS APPLICABLE TO AGRICULTURE

FREQUENCY OF PAYMENT — In contrast with the monthly pay period limit applicable to most other occupations, workers engaged in farm labor may be paid no less often than at regular quarterly intervals. A worker who is absent at the time fixed for payment, or for any other reason is not paid at that time, must be paid thereafter within 6 days of demand.

COMPENSATION AT TERMINATION — Agricultural and non-agricultural employees who do not have a written employment contract for a definite period must receive final wages in full no later than the date on which they would have received their next wages under the employer's established payroll schedule.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860). The Department may receive and investigate any wage claim which is filed with the agency no later than 2 years after the date the wages were due. If a claim is found to be valid, the Department may accept assignment of the claim in trust and may sue the employer on the worker's behalf to recover the difference between the amount required by law to be paid and the amount actually received by the worker. The employer is not only liable for the unpaid wages, but subject to a penalty ranging from 50 percent to 100 percent of the amount of the claim, payable to the worker. Violation of the wage payment law is also deemed a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, any worker may exercise a right of action against an employer in civil court for the full amount of the worker's wages due on each regular payday. In addition, the court may order the employer to pay the worker increased wages ranging from 50 percent to 100 percent of the amount of the claim, depending on the duration of the employer's delay in payment.

→ MIGRANT LABOR LAW (WAGE PAYMENT)

STATUTORY CITATION: Wis. Stat. § 103.93

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.08

GENERAL SUMMARY: Wage payments to out-of-state migrant workers temporarily employed in seasonal agricultural operations in Wisconsin are subject to provisions in the state's migrant labor law.

SPECIFIC TERMS AND CONDITIONS

FREQUENCY OF PAYMENT — Every employer must pay all wages earned by a migrant worker directly to the worker, on regular paydays designated in advance by the employer, but in no case less often than semi-monthly.

MEDIUM OF PAY - Wages may not be paid in any medium other than U.S. currency, or by check or draft.

WAGES AT TERMINATION — Upon termination of the period of employment for which the worker was hired, the employer is generally required to pay all wages due any migrant worker in full within 3 days after termination.

WAGE STATEMENTS — Employers must furnish each migrant worker, at the time of payment, a written statement showing the amount of the worker's gross and net wages, and each amount deducted or withheld for whatever purpose.

DEDUCTIONS — It is illegal for an employer or migrant labor contractor to deduct or withhold from a migrant worker's wages any amount for the payment of past or anticipated debts, unless the worker has previously authorized the deduction or withholding in writing. This does not preclude wage deductions required by law or under court order.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). Complaints regarding wage payments not consistent with these provisions, or claims for unpaid wages, may be filed with the Department for investigation and prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

Wyoming

■ WAGE PAYMENT AND COLLECTION LAWS

STATUTORY CITATION: Wyo. Stat. §§ 27-4-101 - 27-4-105 and §§ 27-4-501 - 27-4-508

GENERAL SUMMARY: Chapter 4, Article 1 of the Wyoming labor statutes governs the payment of wages in the state, including such matters as payroll periods, paydays, wage statements, and the payment of wages at termination. Article 5, in turn, establishes a state-administered procedure for collecting claims for unpaid wages.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — The general requirement that employers pay their workers' wages no less often than semi-monthly, on prescribed paydays, *does not apply* to agricultural operations.

WAGE STATEMENTS — The provision requiring most employers to furnish their employees with an itemized statement of deductions with each payment of wages *does not apply* to agricultural operations.

WAGES AT TERMINATION — Whenever a farmworker or other employee quits the job or is dismissed by the employer, the worker's final wages must be paid no later than the next regularly scheduled payday. Wages must be paid in lawful U.S. money, or by check or draft negotiable at a bank.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261). A farmworker who has not received final pay in accordance with the provisions outlined above may file a claim with the Department, provided the sum involved does not exceed \$500 or 2 months' wages, whichever is greater. The Department must investigate and determine the validity of the claim, and after opportunity for a hearing, may take legal action on the worker's behalf to collect it if investigation finds the claim valid and enforceable. Failure by an employer to pay all wages due a worker who has quit or been dismissed is also punishable as a criminal offense.

Alabama

GENERAL PROPERTY LAWS (AGRICULTURAL LABORERS' LIENS)

STATUTORY CITATION: Ala. Code 1975 § 35-11-91

GENERAL SUMMARY: Chapter 11 of the Alabama property laws provides for the enforcement of liens against certain kinds of property for the settlement of related claims against the property owner.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural laborers and plantation superintendents may enforce a lien against current-year crops grown by farm operators for whom such laborers or superintendents have worked, as a means of collecting unpaid wages for labor and services rendered in connection with those crops. With respect to a farm operator against whom a laborer's lien is declared, however, any lien by a landlord for rent and advances or any other lien for supplies furnished to make the crops must be settled first, before the laborer may collect for wages due.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – To enforce an agricultural laborer's lien, the worker must bring suit in an appropriate state or local court, using a private attorney or public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arizona

ARIZONA PROPERTY LAWS (FARM SERVICES LIENS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 33-901 - 33-909

GENERAL SUMMARY: The Arizona property laws include a provision for farm service liens.

SPECIFIC TERMS AND CONDITIONS: A person who performs labor in connection with planting of a crop on agricultural land and who does not receive wages due for such services is entitled to a lien on the crops produced on that land in settlement of all unpaid amounts. A worker claiming a lien under this provision must file a claim with the county recorder for the county in which the land is located within 10 days after the labor is performed. Within 6 months after filing the claim, the worker must bring suit against the farm operator or landowner in order to enforce the lien.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As noted above, a worker who wishes to collect unpaid wages under these provisions must take legal action in civil court, using a private attorney or a public legal service provider.

Colorado

HARVESTERS' LIEN LAW

STATUTORY CITATION: Colo. Rev. Stat. §§ 38-24.5-101 - 38-24.5-108

GENERAL SUMMARY: Article 24.5 of the state property laws provides certain farmworkers with the right to a lien against the crops on which they perform harvest labor in the event of non-payment of wages.

SPECIFIC TERMS AND CONDITIONS

RIGHT TO LIEN — Any person who harvests grain or other crops, manually or by machine, has a lien on the crop or crops involved as compensation for labor whenever the farm operator or landowner fails or refuses to pay the laborer's wages.

ENFORCEMENT OF LIEN — A worker who has not been paid full wages for harvest labor performed for the owner of the crop must, no later than 10 days after the work is finished, notify the owner via certified mail that a lien will be claimed within 20 days. Within those 20 days, the worker must submit a claim to the Secretary of State's office detailing the amount of unpaid wages, the crop or crops involved, the name of the farm owner, and related information; the lien must also be filed with the county clerk and recorder. A civil suit, through private legal counsel or a public legal service provider, may then be brought to enforce the lien, provided the action commences within 3 months from the filing of the lien.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As noted above, these provisions are enforced in the civil courts.

Idaho

STATE LIEN LAWS (FARM LABORER'S LIEN)

STATUTORY CITATION: Idaho Code § 45-303

RELATED REGULATIONS: Idaho Admin, Code R. 34.05.02

GENERAL SUMMARY: Chapter 3 of the Idaho lien and mortgage statutes provides farm laborers with the right to a lien against the crops on which they perform labor in the event of non-payment of wages.

SPECIFIC TERMS AND CONDITIONS

RIGHT TO LIEN — Any person who performs farm labor on a farm in furtherance of production of a crop in Idaho has a lien on the crop or crops involved as reasonable compensation for labor whenever the farm operator or landowner fails or refuses to pay the laborer's wages in full.

NOTICE OF CLAIM — A worker who has not been paid full wages for farm labor performed for a farm producer or landowner should, no later than 120 days after the work is finished, file a notice of claim with the Idaho Secretary of State's office. The notice must specify the type of claim (farm laborer's lien), the name and address of the producer, the name and address of the claimant, the county or counties where the crop or crops were grown, the name of the commodity to which the lien applies, and the amount of the claim, not including interest.

ENFORCEMENT OF LIEN — A civil suit may be brought to enforce the lien, through private legal counsel or a public legal service provider. A farm laborer's lien may not bind the crop or crops involved for a period longer than 12 months after the claim is filed, but the notice of claim may be extended an additional 6 months by application to the Secretary of State's office within 60 days prior to the expiration of the original 12-month period.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of the Secretary of State, Boise, Idaho 83720 (208-334-3191). This agency is responsible for accepting and filing claims under the farm laborer's lien provision, but does not have any investigative or enforcement authority.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

DEBTOR-CREDITOR LAWS (CROP LIENS)

STATUTORY CITATION: Miss. Code § 85-7-1 and §§ 85-7-31 - 85-7-53

GENERAL SUMMARY: Chapter 7, Article 1 of the state statutes regulating the debtor-creditor relationship includes provisions granting farm laborers a lien on the crops in which they are employed for recoupment of unpaid wages.

SPECIFIC TERMS AND CONDITIONS: Every farmworker who cultivates, harvests or prepares for sale or market any crop in the state may assert a lien on the crop in order to collect unpaid wages from the farm owner or operator for whom such services were performed. The worker may enforce the lien by filing an affidavit before a clerk or justice in the county where the farm or crop is located. On receipt of a valid affidavit, the county official is required to issue a writ authorizing seizure of the crop and summoning the farm owner or operator to court to answer the complaint.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As outlined above, crop liens are enforceable only through the civil courts. A worker who wishes to assert his or her right to such a lien should consult with a private attorney or public legal service provider.

Montana

FARM LABORERS' LIEN LAW

STATUTORY CITATION: Mont. Code §§ 71-3-401 - 71-3-408

GENERAL SUMMARY: State law grants farm laborers in Montana a lien on their employer's crops as security for the payment of wages for their services, up to \$1,000 per worker.

SPECIFIC TERMS AND CONDITIONS

ENTITLEMENT — Other than a worker who quits without cause before the end of the agreed-upon term of employment, a person who performs services as a farm laborer and who does not receive all wages due from the farm operator is entitled to a lien on the crops grown or harvested by the operator, for up to \$1,000 in unpaid wages. The farm laborers' lien has priority over all other liens, mortgages and encumbrances, except seed grain and threshers' liens and three months' feed for one horse, two cows and their calves, four hogs, and 50 domestic fowl.

ENFORCEMENT — To enforce the lien, the worker must file a claim with the office of the Secretary of State, within 30 days after the worker's services for the employer are completed. The statement of the claim must be signed by the worker and (1) include the names and addresses of both the worker and the farm operator, (2) note that the claim is a farm laborer's lien, (3) describe the farm products that are the basis of the lien, (4) describe the nature of the services performed by the worker and the terms and period of employment, (5) state the amount of the wages agreed on and the amount of the unpaid wages, and (6) specify the county where the crops are located.

With legal counsel arranged by the worker, court action to enforce the lien must be commenced within 90 days of filing.

DISCHARGE OF THE LIEN — Once the unpaid wages have been received and the lien has been satisfied, the worker is required to file a termination statement with the Secretary of State's office, on a form prescribed for that purpose.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – UCC Division, Montana Secretary of State, Helena, Montana 59620 (406-444-2468). This office is responsible for receiving and recording liens filed by workers and others with claims for unpaid debts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As indicated above, the farm laborers' lien is enforceable only through the civil courts, using private legal counsel or a public legal service provider. The lien should be filed as soon as possible after wages become due and unpaid.

South Carolina

AGRICULTURAL LIEN LAWS

STATUTORY CITATION: S.C. Code §§ 29-13-10 - 29-13-130

GENERAL SUMMARY: South Carolina's lien laws affirm the right of farmworkers to a lien against the crops of their employers in the event the workers fail to receive full compensation for their labor.

SPECIFIC TERMS AND CONDITIONS: Laborers who perform services in the production of any crop, whether for a share of the crop or for wages, are entitled to a lien on the crop to the extent of the amount due them for such labor. The lien of a farmworker or sharecropper is second in priority only to the landowner's lien for unpaid rent.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforceable through the courts. Any worker who has not received full compensation for his or her labor on a crop may enforce the agricultural laborers' lien in a civil action, utilizing private legal counsel or a public legal service provider.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Tennessee

CROP LIEN LAWS

STATUTORY CITATION: Tenn. Code §§ 66-12-101 - 66-12-115

GENERAL SUMMARY: Chapter 12 of the Tennessee property statutes includes provisions granting farm laborers a lien on the crops they help produce, enforceable in the event of non-payment of wages or compensation.

SPECIFIC TERMS AND CONDITIONS: Any worker who cultivates the soil or performs related services on a crop in accordance with a verbal or written contract with a farm operator, and who does not receive full wages or compensation as agreed on in the contract, may enforce a lien on the crop at any time within 3 months after November 15 of the year in which the labor on the crop was performed. The worker must file a sworn statement of the claim before the appropriate court in order to preserve this right, and the laborer's lien is second only to any landlord's lien for unpaid rent or supplies.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — These provisions are enforceable only through the courts. A farmworker who does not receive all wages earned in the production of a crop should consult a lawyer about foreclosure of the worker's lien, as well as other legal avenues for recovering the unpaid wages.

Texas

PROPERTY CODE (FARM, FACTORY, AND STORE WORKERS' LIENS)

STATUTORY CITATION: Tex. Prop. Code §§ 58.001 - 58.009

GENERAL SUMMARY: Chapter 58 of the Texas Property Code establishes a worker's lien on the property of certain employers, for wages earned by the worker in the performance of labor under a contract of hire.

PROVISIONS APPLICABLE TO AGRICULTURE: A farmworker who is employed by a farm operator under an oral or written contract, and who does not receive payment in full for the services performed on the employer's crop, has a lien on the crop and related equipment in the amount of the unpaid wages.

To secure the lien, the worker must present a written statement of the claim to the employer and file a verified copy of the statement with the county clerk in the jurisdiction in which the services were performed, both within 30 days after the wages became due. No later than 6 months after securing the lien in this manner, the worker must bring suit to foreclose the lien, or the claim ceases to exist. A worker's lien for wages is second in priority only to a lien by the landowner, if any, for unpaid rent.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - None.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As noted above, enforcement of a worker's lien requires court action. Farmworkers who wish to use this approach to collect unpaid wages should consult a private attorney or a public legal service provider.

U.S.

■ INTERNAL REVENUE CODE OF 1986 (COLLECTION OF INCOME TAX AT THE SOURCE ON WAGES)

STATUTORY CITATION: 26 USC §§ 3401 - 3406

RELATED REGULATIONS: 26 CFR Part 31

GENERAL SUMMARY: The Internal Revenue Code embodies, among other provisions, the federal income tax laws of the United States. The Code dictates both the income tax rates and the circumstances under which individuals are liable for payment of income taxes. In general, every employer who pays wages during the year is required to deduct and withhold from such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury.

On or before January 31 of the following year, an employer required to withhold federal income tax must provide each employee with a statement on Form W-2 showing, among other information, (a) the employer's name, address and identification number, (b) the employee's name, address and Social Security number, (c) the total amount of wages paid, (d) the total amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that agricultural wages are subject to FICA taxes, the wages are also subject to withholding of federal income taxes. Hence, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees.

On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must deduct and withhold federal income tax from that worker's wages.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be obligated to file an annual federal income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

VOLUNTARY WITHHOLDING — While deduction of income tax from a farmworker's wages may not be required, such taxes may be withheld if the employer and the employee agree to such withholding. A worker who desires to enter into a voluntary withholding agreement must furnish the employer with a completed Form W-4, which constitutes a request for withholding. No request for voluntary withholding is effective, however, until the employer accepts the request by commencing to withhold taxes from the worker's earnings.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710). Primarily through its district offices and regional service centers, IRS is responsible for the collection of taxes authorized by the Internal Revenue Code. Consequently, IRS district office personnel may investigate complaints or suspected violations involving the collection and handling of employment taxes.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Alabama

ALABAMA INCOME TAX LAWS

STATUTORY CITATION: Ala. Code 1975 § 40-18-71

RELATED REGULATIONS: Ala. Admin. Code, § 810-3-75-.01

GENERAL SUMMARY: Chapter 18 of Alabama's revenue and taxation statutes authorizes the taxation of income in the state and generally requires the withholding of income taxes from employees' wages. With certain exceptions and credits, employers must withhold a tax equal to two percent of the first \$500 or less in wages paid, four percent of the next \$2,500 or less, and five percent of the excess over \$3,000. Employers have the option of withholding a substantially equivalent amount based on tables furnished by the state administering agency.

PROVISIONS APPLICABLE TO AGRICULTURE: Like the earnings of most other classes of employees, agricultural workers' wages are subject to withholding of state income tax. No later than January 31 of the following year or 30 days after the employment ends, employers must provide each worker with a statement showing (1) the total amount of compensation paid during the calendar year, (2) the amount of state income tax withheld, and (3) the employer's name, address and tax ID number.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Individual and Corporate Tax Division, Alabama Department of Revenue, Montgomery, Alabama 36132 (334-242-1000).

Arizona

ARIZONA INCOME TAX ACT OF 1978

STATUTORY CITATION: Ariz. Rev. Stat. §§ 43-101 – 43-1606

GENERAL SUMMARY: The Arizona Income Tax Act authorizes the taxation of income in the state and generally requires the withholding of income taxes from employees' wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's withholding provisions do not apply to wages paid to part-time or seasonal employees engaged solely in the planting, cultivation, harvest or field packing of seasonal agricultural crops, unless their principal duties consist of operating mechanically driven devices in such operations. Hence, most farmworkers and their agricultural employers are exempt from state income tax withholding.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite the general exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Arizona Department of Revenue, Phoenix, Arizona 85007 (602-542-5551; toll-free 800-352-4090).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Arkansas

ARKANSAS INCOME TAX WITHHOLDING ACT OF 1965

STATUTORY CITATION: Ark. Code §§ 26-51-901 - 26-51-919

GENERAL SUMMARY: The Arkansas Income Tax Withholding Act requires most employers in the state to deduct and withhold state income taxes from their employees' wages, and to forward such taxes to the state for credit against the employees' tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers who pay wages for agricultural labor to 4 or more employees during the year are required to withhold state income tax from their workers' wages, maintain related records, and provide the workers with an annual statement of wages paid and taxes withheld on or before January 31 following the end of the tax year.

A farm employer who pays farm wages to 3 employees or fewer has the option to collect, account for and forward the taxes to the state if the employer so chooses. Employers who opt to withhold state income tax, however, are obligated to provide each employee with the required annual statement of wages and taxes.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Whether an employer withholds taxes from wages or not, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Income Tax Administration, Arkansas Department of Finance and Administration, Little Rock, Arkansas 72201 (501-682-1130).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

California

PERSONAL INCOME TAX AND WITHHOLDING TAX LAWS

STATUTORY CITATION: Cal. Rev. & Tax. Code §§ 17001-21028; Cal. Unemp. Ins. Code §§ 13000-13101

GENERAL SUMMARY: The Personal Income Tax Law imposes a state tax on personal income and requires most employers to deduct and withhold state income tax from wages paid to their employees each payroll period. The withholding tax laws define the wages which are subject to withholding and prescribe the procedures for tax withholding, remittance and reporting.

PROVISIONS APPLICABLE TO AGRICULTURE: Remuneration paid for agricultural labor is not regarded as "wages" under these provisions. Hence, agricultural employers and their workers are **exempt** from the state income tax withholding requirements.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Tax Branch, Employment Development Department, Sacramento, California 95814 (888-745-3886).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - Franchise Tax Board, Sacramento, California 95812 (916-845-4543).

Colorado

COLORADO INCOME TAX ACT OF 1987

STATUTORY CITATION: Colo. Rev. Stat. §§ 39-22-101 - 39-22-4604

GENERAL SUMMARY: The Colorado Income Tax Act imposes a tax on the income of every individual, estate and trust in the state. The law requires every employer making wage payments to deduct and withhold from each employee's wages an amount calculated to approximate as nearly as possible the worker's income tax liability to the state, and to forward withheld taxes to the state treasury for credit against the worker's liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Like the earnings of most other classes of employees, agricultural workers' wages are subject to withholding of state income tax. Employers must provide each worker with a statement showing the amount of tax deducted at the time of each payment of wages during the year, and on or before January 31 of the following year must furnish the worker with a statement showing the total compensation paid and the tax withheld the preceding year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Taxation Division, Colorado Department of Revenue, Denver, Colorado 80217 (303-238-7378). The Department of Revenue is responsible for enforcing the collection of income tax withholding by employers and for assuring remittance of withheld taxes to the state treasury. Any worker who has reason to believe that taxes deducted from pay are not being properly forwarded and reported to the worker's credit should contact the Department, which will investigate the complaint. Failure to comply fully with income tax withholding and reporting requirements exposes an employer to both civil money penalties and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Connecticut

STATE INCOME TAX LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 12-700 - 12-746

RELATED REGULATIONS: Conn. Agencies Regs. §§ 12-705(a)-1 - 12-707-3

GENERAL SUMMARY: These provisions impose a tax on the income of each Connecticut resident, and on non-residents of the state who have income from Connecticut sources. Anyone who maintains an office or transacts business in Connecticut and is considered an employer for federal withholding purposes must register with the state revenue services department and withhold state income tax from wages paid to employees in Connecticut.

Employers are also required to provide to each employee a federal Form W-2, showing the amount of Connecticut wages the employer paid during the calendar year and the amount of state income tax the employer withheld over the same period.

PROVISIONS APPLICABLE TO AGRICULTURE: There are no statutory or regulatory exceptions to the Connecticut income tax withholding requirements applicable to agricultural employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Tax Division, Department of Revenue Services, Hartford, Connecticut 06106 (860-297-5943). This agency is responsible for enforcing the collection of income tax withholding by employers and for assuring remittance of withheld taxes to the state. Any worker who has reason to believe that taxes deducted from pay are not being properly forwarded and reported to the worker's credit should contact the Department, which will investigate the complaint. Failure to comply fully with income tax withholding and reporting requirements exposes an employer to both civil money penalties and criminal prosecution.

Delaware

STATE INCOME TAX LAW

STATUTORY CITATION: Del. Code Title 30, §§ 1101-1204

GENERAL SUMMARY: Delaware's personal income tax law imposes a tax on the earnings and other forms of taxable income of individuals who reside in the state, or who derive taxable income from sources within the state. The law requires employers who pay any wages subject to federal income tax withholding to deduct and withhold state income taxes from their employees' wages and forward such amounts to the state.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminated before the end of the year — the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Delaware must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Revenue, Delaware Department of Finance, Wilmington, Delaware 19801 (302-577-8779).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Georgia

STATE WITHHOLDING TAX LAW

STATUTORY CITATION: Ga. Code §§ 48-7-100 - 48-7-129

GENERAL SUMMARY: With certain exceptions, the state withholding tax law requires employers to deduct and withhold for state income tax purposes a portion of the wages paid to their employees, and to forward withheld taxes to the state for credit against the employees' state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Remuneration paid for agricultural labor is not deemed "wages" under this law, effectively exempting agricultural employers and their workers from state income tax withholding requirements.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Georgia Department of Revenue, Atlanta, Georgia 30345. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Hawaii

STATE INCOME TAX LAW (WITHHOLDING PROVISIONS)

STATUTORY CITATION: Haw. Rev. Stat. §§ 235-61 - 235-69

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 18-235-61-01 – 18-235-61-14

GENERAL SUMMARY: The state income tax law imposes a tax on certain individual income, including earnings, and requires most employers to deduct and withhold from each worker's wages an amount of tax calculated to reflect the worker's tax liability at year's end. Employers must report and forward withheld taxes to the state monthly or quarterly, and by January 31 of the succeeding year must furnish to each worker from whom taxes were withheld a written statement showing the period covered by the statement, the wages paid, and the amount of taxes withheld. A duplicate copy of the wage and tax statement must be submitted by the employer to the state by the last day of February.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers are implicitly subject to state income tax withholding on the same terms as workers in non-agricultural occupations and industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Division, Department of Taxation, Honolulu, Hawaii 96813 (808-587-1611). The Department is in charge of the collection of state income taxes from individuals, and for enforcing the withholding and reporting requirements applicable to employers. A worker who has reason to believe that taxes withheld from wages have not been properly reported or forwarded by the employer to the state agency, or who has not received an annual wage and tax statement from the employer, should contact the nearest district office of the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Idaho

■ IDAHO INCOME TAX ACT

STATUTORY CITATION: Idaho Code §§ 63-3001 – 63-3087

GENERAL SUMMARY: The Idaho Income Tax Act establishes a state tax on personal income, including earnings from employment, and requires employers to withhold and forward to the state a prescribed portion of each employee's wages calculated to reflect the employee's state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers, defined as individuals over 2/3 of whose gross income is derived from farming, are subject to special withholding requirements but generally must adhere to the same tax deposit and reporting requirements as their non-agricultural counterparts.

INCOME TAX WITHHOLDING — With respect to any worker who earns or is expected to earn \$1,000 or more in cash wages, bonuses and other compensation during the tax year, every Idaho farm employer must deduct and retain state withholding tax in an amount substantially equivalent to the tax reasonably calculated to be due from the employee, using withholding tables provided by the State Tax Commission.

TAX DEPOSITS AND REPORTING — Agricultural employers are required to periodically forward all withholding taxes to the state agency, and to file a return showing the compensation paid to each employee and the amount of withholding taxes deducted. No less than 30 days after the end of the calendar year, the farmer-employer must furnish a record of the amount of tax withheld to each worker from whose pay withholding taxes have been deducted, and must file a copy of the employee tax statement with the state agency.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Idaho State Tax Commission, Boise, Idaho 83722 (208-334-7660).* The Commission is responsible for the collection, reporting and accounting of state income taxes. Any worker who has reason to believe that withholding taxes deducted from earnings by an employer have not been properly paid or reported to the Commission, or who has not received an annual withholding tax statement from an employer who has deducted such taxes from the worker's pay, should contact a representative of the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Illinois

■ ILLINOIS INCOME TAX ACT

STATUTORY CITATION: 35 Ill. Comp. Stat. §§ 5/101 - 5/1701

GENERAL SUMMARY: The Illinois Income Tax Act imposes a tax on the net income (including earnings from employment) of most residents and wage earners in the state, and compels every employer in Illinois who is required to withhold federal income tax from a worker's wages to deduct and withhold state income tax on the worker's wages as well, and to forward withheld taxes to the state for credit against the worker's state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Illinois must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

TOLL-FREE TELEPHONE SERVICE — For taxpayer assistance, the Department of Revenue may be reached without charge from anywhere in the state, at 800-732-8866.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Illinois Department of Revenue, Springfield, Illinois 62794.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Indiana

ADJUSTED GROSS INCOME TAX ACT OF 1963

STATUTORY CITATION: Ind. Code §§ 6-3-1-1 - 6-3-8.1-3

GENERAL SUMMARY: The Adjusted Gross Income Tax Act imposes a tax on the adjusted gross income (including employment earnings) of every Indiana resident, and on every non-resident of Indiana who has income derived from sources inside the state. The Act generally requires every employer who must withhold federal income tax from an employee's wages to deduct and withhold state adjusted gross income tax from the employee's wages also, and to remit withheld taxes to the state for credit against the worker's liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Indiana must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Indiana Department of Revenue, Indianapolis, Indiana 46204 (317-232-2240). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Iowa

PERSONAL NET INCOME TAX LAW

STATUTORY CITATION: Iowa Code §§ 422.4 - 422.31

GENERAL SUMMARY: Chapter 422, Division II of the state statutes establishes a personal net income tax applicable to wage earners and other individuals in Iowa, and requires withholding of state income tax at the source of payment. Every employer required under the Internal Revenue Code to withhold federal income tax from any employee's wages must also deduct and withhold state income tax on the employee's earnings, and forward state withholding taxes to the state revenue department for credit against the worker's tax liability.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminates before the close of the current calendar year — the employer is required to provide the employee with a written statement showing (1) the employer's name, address and tax identification number, (2) the employee's name, address and Social Security number, (3) the employee's gross wages, (4) the amount of state income tax withheld, and (5) the amount of federal income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Iowa must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Iowa Department of Revenue, Des Moines, Iowa 50306 (515-281-3114; toll-free 800-367-3388).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Kansas

○ KANSAS WITHHOLDING AND DECLARATION OF ESTIMATED TAX ACT

STATUTORY CITATION: Kan. Stat. §§ 79-3294 - 79-32,108a

GENERAL SUMMARY: The Kansas Withholding and Declaration of Estimated Tax Act compels every employer who is required under the Internal Revenue Code to withhold federal income tax from the pay of any wage earner residing or employed in Kansas, to deduct an additional amount corresponding to the worker's liability for state income tax.

On or before January 31 of the following calendar year, the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Kansas must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Taxation, Kansas Department of Revenue, Topeka, Kansas 66612 (785-296-6121). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

INCOME TAX LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 141.010 - 141.990

GENERAL SUMMARY: The state income tax law levies an annual tax on the net income of every Kentucky resident and authorizes the withholding of state income tax from wage payments by employers, to the extent that such wages are subject to federal income tax withholding.

On or before January 31 of the following calendar year — or on the day of the last payment of wages, in the case of an employee whose job terminates before the close of the current calendar year — the employer is required to provide the employee with a written statement showing (1) the employer's name, (2) the employee's name and Social Security number, (3) the employee's gross wages, and (4) the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Kentucky must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Individual Income and Withholding Tax Division, Office of Income Taxation, Kentucky Department of Revenue, (502-564-7007, extension 7552).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Louisiana

INCOME TAX LAW

STATUTORY CITATION: La. Rev. Stat. §§ 47:21 - 47:300.11

GENERAL SUMMARY: Subtitle II, Chapter 1 of Louisiana's revenue and taxation statutes levies a tax on the net income of residents, certain non-residents and other entities, including income derived from employment within the state. With some exceptions, every employer making any wage payments in Louisiana must deduct and withhold from each worker's wages an amount calculated to approximate the wage earner's state income tax liability with respect to such wages.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers and farmworkers are **exempt** from the state income tax withholding requirement.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Tax Administration and Compliance, Louisiana Department of Revenue, Baton Rouge, Louisiana 70802 (225-219-4059; toll-free 855-307-3893).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maine

■ MAINE INCOME TAX LAW

STATUTORY CITATION: Me. Rev. Stat. Title 36, §§ 5101 - 5403

GENERAL SUMMARY: The Maine Income Tax Law imposes a tax on certain income received by residents of the state, and on taxable income of non-residents which is derived from sources within the state, including wages from employment. The law requires every employer who pays to any worker taxable wages subject to federal income tax withholding, to deduct and withhold from such wages an amount estimated to equal the worker's state income tax liability with respect to those earnings.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminates before the close of the current calendar year — the employer is required to provide the employee with a written statement showing the amount of wages paid and the amount of state income tax withheld during calendar year being reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Maine must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Withholding Division, Maine Revenue Services, Department of Administrative and Financial Services, Augusta, Maine 04332 (207-626-8475).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Maryland

INCOME TAX LAWS

STATUTORY CITATION: Md. Code, Tax-Gen. §§ 10-101 - 10-913

GENERAL SUMMARY: The state income tax laws generally require every employer utilizing the services of an employee to deduct, withhold, and pay over to the state treasury, income tax on the wages paid to each such employee. For purposes of state income tax withholding, the term "wages" has the same meaning as the term is defined in the federal Internal Revenue Code.

On or before January 31 of the following year, the employer is required to provide the worker with a written statement showing the employer's name, the worker's name, the worker's total wages, and the amount of state income tax withheld during the year being reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Maryland must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Comptroller of Maryland, Annapolis, Maryland 21411 (410-260-7980). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Massachusetts

→ STATE INCOME TAX LAWS (WITHHOLDING OF TAXES ON WAGES)

STATUTORY CITATION: Mass. Gen. Laws Ch. 62B, §§ 1 - 15

GENERAL SUMMARY: Every employer in Massachusetts who makes any payment of wages subject to federal income tax withholding under the Internal Revenue Code must deduct and withhold state income taxes on such wages also, and forward the sums withheld to the state for credit against the wage earners' state tax liability.

On or before January 31 of the following year — or, if an employee's job ends before the close of the tax year, within 30 days from the last payment of wages — the employer is required to provide each employee with a written statement in duplicate showing the name of the employer, the name and Social Security number of the employee, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Massachusetts must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Massachusetts Department of Revenue, Boston, Massachusetts 02204 (617-887-6367; toll-free 800-392-6089).

Michigan

■ INCOME TAX ACT OF 1967

STATUTORY CITATION: Mich. Comp. Laws §§ 206.1 – 206.713

GENERAL SUMMARY: The Income Tax Act imposes a tax on the net income of Michigan residents and certain non-residents, a levy which extends to wages from employment and other compensation taxable under federal income tax provisions. The Act compels every employer who is required to withhold federal income tax from a worker's wages to deduct and withhold state income taxes from the worker's wages also, and to forward the amounts withheld to the state for credit against the worker's state income tax liability.

On or before January 31 of the following year — or within 30 days after the last payment of wages, in the case of a worker whose job ends before the end of the tax year — the employer is required to provide the worker with a written statement showing the worker's total wages and the amount of state income tax withheld during the calendar year being reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Michigan must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Discovery and Tax Enforcement, Tax Compliance Bureau, Michigan Department of Treasury, Lansing, Michigan 48922 (517-636-4486).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

STATUTORY CITATION: Mich. Comp. Laws §§ 141.501 - 141.787

GENERAL SUMMARY: The City Income Tax Act authorizes any Michigan city that either had an income tax in effect on January 1, 1995, or whose voters approved such a tax, to levy and collect an excise tax on certain income, including salaries, wages, commissions and bonuses which are (1) earned by residents of the city, or earned by non-residents for services performed in the city, and (2) subject to taxation under the Internal Revenue Code. Employers doing business or maintaining an establishment within any such city are required to withhold city income tax at the specified rate from the wages of any employee whose compensation is subject to federal income tax or FICA tax withholding.

On or before the last day of February following the calendar year in which such wages were paid, the employer must furnish the worker with a statement (such as a Form W-2) showing the total amount of compensation paid and the amount of city income taxes withheld

PROVISIONS APPLICABLE TO AGRICULTURE: With respect to an agricultural worker (1) who resides or is employed in a city with a local-option income tax and (2) whose wages are subject to FICA taxes, farm operators and other agricultural employers are generally required to withhold city income tax from the worker's wages each pay period and forward withheld taxes to the city quarterly, for credit against the worker's tax liability.

Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Michigan must also withhold city income tax from the wages of any employee who is a resident of a city with a local-option income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold local income tax as well if the worker is a resident of a city with a local-option income tax.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker is required to file a city income tax return if the worker's federal adjusted gross income exceeds personal exemptions. Tax may be owed if, after other state adjustments to federal adjusted gross income, the worker has net income.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Except for the City of Detroit, whose income tax is administered by the Michigan Department of Treasury, the City Income Tax Act is enforced by the individual municipalities that have adopted the local-option income tax. The governing body of each such city is required to appoint an income tax board of review, to which a worker may appeal an assessment of taxes, denial of a claim for refund, or other ruling made by the city's designated income tax administrator.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Discovery and Tax Enforcement, Tax Compliance Bureau, Michigan Department of Treasury, Lansing, Michigan 48922 (517-636-4486). A worker aggrieved by a determination of a local income tax board of review regarding an assessment of taxes, denial of a claim for refund, or other ruling may file an appeal with the Bureau of Revenue.

Minnesota

■ INCOME AND FRANCHISE TAX LAWS

STATUTORY CITATION: Minn. Stat. §§ 290.01 - 9744 and §§ 289A.01 - 289A.63

GENERAL SUMMARY: The state income and franchise tax laws impose an annual tax on the income of Minnesota residents, and non-residents who have any earnings from employment in the state. Employers are generally required to withhold state income tax from the wages of their employees, insofar as such wages are subject to withholding of federal income taxes, and to forward withheld taxes to the state for credit against the employees' income tax liability.

On or before January 31 of the succeeding year (or within 30 days after receiving a written request from the employee), the employer must provide the employee with a written statement showing (1) the employer's name, 2) the employee's name and Social Security number, (3) the total amount of wages paid, and (4) the total amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Minnesota must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

Exception — Employers are not required to withhold Minnesota income tax from wages paid to a worker who is not a resident of Minnesota if the amount the employer expects to pay the worker is less than the minimum income requirement for a non-resident to file a Minnesota individual income tax return (currently \$10,700).

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Income Tax and Withholding Division, Minnesota Department of Revenue, St. Paul, Minnesota 55146 (651-282-9999; toll-free 800-657-3594).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Mississippi

■ MISSISSIPPI INCOME TAX WITHHOLDING LAW OF 1968

STATUTORY CITATION: Miss. Code §§ 27-7-301 - 27-7-349

GENERAL SUMMARY: The Mississippi Income Tax Withholding Law requires most employers making any payment of wages to deduct and withhold state income taxes from such wages and to forward the amounts withheld to the state for credit against their employees' state income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: Wages paid for services performed in connection with farming are exempt from the Income Tax Withholding Law.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Withholding Income Division, Mississippi Department of Revenue, Jackson, Mississippi 39215 (601-923-7088).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Missouri

■ INCOME TAX LAW (WITHHOLDING OF TAX)

STATUTORY CITATION: Mo. Rev. Stat. §§ 143.191 - 143.265

GENERAL SUMMARY: The Missouri income tax law requires every employer transacting any business in the state, and paying any taxable wages to a resident or non-resident worker, to deduct and withhold state income tax from such wages, to the extent that the worker's pay is also subject to withholding of federal income taxes.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminated before the end of the year — the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Missouri must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Business Tax Bureau, Taxation Division, Missouri Department of Revenue, Jefferson City, Missouri 65101 (573-751-3505).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Montana

■ INDIVIDUAL INCOME TAX LAW

STATUTORY CITATION: Mont. Code §§ 15-30-2101 - 15-30-3321

GENERAL SUMMARY: The state individual income tax law imposes a tax on, among other items, the employment earnings of Montana residents, as well as non-residents who have earnings from services performed within the state. Every employer who pays any worker any wages subject to state withholding must deduct state income tax from the worker's pay and forward withheld taxes to the state for credit against the worker's income tax liability.

PROVISIONS APPLICABLE TO AGRICULTURE: For purposes of withholding, the term "wages" does not include remuneration paid for agricultural labor. Hence, agricultural employers and their workers are **exempt** from withholding of state income tax from earnings.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Income and Withholding Taxes Bureau, Business and Income Taxes Division, Montana Department of Revenue, Helena, Montana 59604 (406-444-6900; toll-free 866-859-2254).

Nebraska

■ NEBRASKA REVENUE ACT OF 1967

STATUTORY CITATION: Neb. Rev. Stat. §§ 77-2701 - 77-27,135.01

GENERAL SUMMARY: The Nebraska Revenue Act imposes a tax on the income of every resident of the state, and on the income of non-residents which is derived from sources within the state, including earnings from employment. In general, every employer transacting business in Nebraska and making payment of any wages subject to federal income tax withholding, must also deduct and withhold state income taxes from such wages.

No later than the following February 15 — or within 30 days after the last payment of wages, in the case of a worker whose job ended before the end of the year — the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Nebraska must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Compliance Division, Nebraska Department of Revenue, Lincoln, Nebraska 68509 (402-471-5913).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New Jersey

NEW JERSEY GROSS INCOME TAX ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 54A:1.1 - 54A:10-12

GENERAL SUMMARY: The New Jersey Gross Income Tax Act imposes an annual tax on gross income, including wages paid to residents and non-residents for services rendered in the state. To the extent that an employee's wages are subject to state unemployment insurance taxes (see entry, New Jersey — Insurance & Compensation — Unemployment Insurance), the employer must deduct and withhold from the individual's wages each pay period an amount calculated to approximate the state income tax due on the compensation involved.

Sums withheld from the worker's pay must periodically be forwarded to the state for credit against the worker's income tax liability. Furthermore, by February 15 of the succeeding year or within 30 days of payment of final wages, the employer must furnish the worker with a written statement showing the worker's total earnings for the year and the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural employers who (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to withhold state income tax from their employees' wages.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Taxation, New Jersey Department of the Treasury, Trenton, New Jersey 08695 (609-292-6400). This agency is responsible for enforcing the withholding of state income taxes from employees' wages, and for assuring employers' compliance with requirements for reporting wages and taxes to their employees.

New Mexico

WITHHOLDING TAX ACT

STATUTORY CITATION: N.M. Stat. §§ 7-3-1 - 7-3-13

GENERAL SUMMARY: The Withholding Tax Act requires every employer who deducts and withholds a portion of an employee's wages for payment of federal income tax, to also deduct and withhold for each payroll period an amount specified in the state withholding tax tables to cover the worker's liability for state income tax. Taxes withheld under these provisions must be forwarded to the state by the employer no later than the 25th day of the month following the month of required withholding.

No later than the last day of February, the employer is required to provide the employee with a written statement showing the total amount of wages paid to the employee throughout the year and the amount of state income tax withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in New Mexico must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Audit and Compliance Division, New Mexico Department of Taxation and Revenue, Santa Fe, New Mexico 87502 (505-827-0940).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

New York

TAX LAW (PERSONAL INCOME TAX)

STATUTORY CITATION: N.Y. Tax Law §§ 601 - 699

GENERAL SUMMARY: Article 22 of the state tax statutes imposes a tax on certain personal income, including all employment earnings of New York residents and that portion of the earnings of non-residents which is derived from or connected with New York sources. Every employer maintaining an office or transacting business in the state and making payment of any wages subject to the state personal income tax must deduct and withhold from each worker's wages for each payroll period an amount calculated to approximate the worker's state income tax liability on such wages. The amounts withheld must be periodically forwarded to the state or a designated tax depository, for credit against the worker's year-end liability. On or before February 15 of the succeeding year, the employer must provide the worker with a written statement showing the amount of wages paid to the worker and the amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: According to state tax rules, wages are subject to state income tax withholding to the same extent as they are subject to withholding of federal income tax. Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in New York must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Collections and Civil Enforcement Division, New York State Department of Taxation and Finance, Albany, New York 12227 (518-591-1980).

North Carolina

→ REVENUE ACT (INCOME TAX WITHHOLDING)

STATUTORY CITATION: N.C. Gen. Stat. §§ 105-163.2 - 105-163.24

GENERAL SUMMARY: The Revenue Act's income tax withholding provisions require every employer who pays any wages — as the term is defined in the U.S. Internal Revenue Code — to deduct an amount calculated to approximate the employee's state income tax liability for those wages, as determined by tax tables furnished by the state revenue department. The employer must remit withheld taxes to the revenue department monthly, quarterly or semi-weekly. On or before January 31 of the succeeding year, or within 30 days after the last wage payment is made, the employer must provide the employee with a statement showing (1) the employer's name, address and taxpayer identification number, (2) the employee's name and Social Security number, (3) the total amount of wages paid during the calendar year, and (4) the total amount of state income tax deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in North Carolina must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - North Carolina Department of Revenue, Raleigh, North Carolina 27640 (919-707-0880; toll-free 877-252-3052).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

North Dakota

INCOME TAX LAW

STATUTORY CITATION: N.D. Cent. Code §§ 57-38-01 - 57-38-75

GENERAL SUMMARY: Chapter 57-38 of the state statutes levies an annual tax on the income of residents and certain non-residents of North Dakota. With few exceptions, every employer in the state who makes wage payments subject to federal income tax withholding is required to deduct and withhold from such earnings a sum calculated to approximate the state income tax due on the worker's wages. The employer must forward withheld taxes to the state quarterly and, by January 31 of the following year, must furnish the worker with a statement showing the total compensation paid and amounts withheld for state income tax purposes.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in North Dakota must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - North Dakota Office of State Tax Commissioner, Bismarck, North Dakota 58505 (701-328-1247).

Ohio

INCOME TAX LAW

STATUTORY CITATION: Ohio Rev. Code §§ 5747.01 - 5747.99

GENERAL SUMMARY: Chapter 5747 of the state statutes imposes an annual income tax on every individual residing or receiving income in Ohio. Most employers transacting business in the state and making payment of any compensation to a worker must deduct and withhold from the worker's pay each payroll period an amount of tax estimated to equal the worker's year-end income tax liability on the wages involved. The employer is required to forward withheld taxes to the state at designated intervals, for proper credit against the worker's liability. By January 31 of the following year, the employer must furnish both the state agency and the worker an annual report showing the compensation paid to and the income tax withheld from the worker during the entire preceding year.

PROVISIONS APPLICABLE TO AGRICULTURE: The withholding provision of the state income tax law exempts compensation paid for agricultural labor.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file quarterly reports of estimated taxes and an annual state income tax return, and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Division, Ohio Department of Taxation, Columbus, Ohio 43229 (toll-free 888-405-4091).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oklahoma

OKLAHOMA INCOME TAX ACT

STATUTORY CITATION: Okla. Stat. Title 68, §§ 2351 – 2386

GENERAL SUMMARY: The Oklahoma Income Tax Act imposes a tax on the income of Oklahoma residents, and on the income of non-residents which is derived from sources within the state. In general, every employer who makes wage payments in Oklahoma must deduct and withhold from the wages of each employee an amount corresponding to the employee's state income tax liability on such earnings, as determined from state-issued tax tables. Once a week, once a month or once each quarter, the employer must forward withheld taxes to the state, and no later than January 31 of the succeeding year must furnish each employee with a written statement showing the employer's name, the name and Social Security number of the worker, the total amount of wages subject to taxation, and the total amount of state income taxes withheld from the worker's pay.

PROVISIONS APPLICABLE TO AGRICULTURE: With respect to any worker paid more than \$900 a month for agricultural labor, the employer or other person having control over the payment of such wages must withhold state income tax from the worker's wages. In turn, farm employers who withhold any state income tax are liable for the payment and reporting of withheld taxes, and for providing an annual wage and tax statement to each worker from whom taxes have been withheld.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite the exemption of some farmworkers from state withholding requirements, such workers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma (405-521-3251). The Commission is responsible for the collection of income tax withholding from employers, and for crediting withheld taxes against the tax liability of the affected employees. Any worker who has reason to believe that income tax has been incorrectly withheld, or has not been properly paid or reported to the state, should contact a representative of the Commission.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Oregon

PERSONAL INCOME TAX ACT OF 1969

STATUTORY CITATION: Or. Rev. Stat. §§ 316.002 - 316.992

GENERAL SUMMARY: The Personal Income Tax Act imposes a tax on the income of Oregon residents, and on the income of non-residents that is ascribable to sources within the state. At the time of payment of wages to an employee, employers generally must deduct and retain from such wages an amount equivalent to the employee's state income tax liability on the earnings, as determined from state-issued tax withholding tables. Employers are required to periodically forward withheld taxes to the state and to advise their employees of the amounts withheld and reported.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for remuneration paid to a farmworker for services in the planting, cultivation or harvest of seasonal agricultural crops where total wages for the year are less than \$300, the wages of agricultural workers are subject to state income tax withholding the same as the wages of most non-agricultural employees.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption of some farmworkers from withholding from wages, such workers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, Personal Tax and Compliance Division, Oregon Department of Revenue, Salem, Oregon 97301 (503-945-8440; toll-free 800-356-4222). The Department is responsible for the collection of the state income tax, and hence for the enforcement of withholding of taxes at the source of payment. Employers are subject to civil and criminal penalties for failure to report and remit withheld taxes. A worker who believes state income taxes have been improperly withheld, reported or forwarded should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Pennsylvania

TAX REFORM CODE OF 1971 (PERSONAL INCOME TAX)

STATUTORY CITATION: 72 Pa. Stat. §§ 7301 - 7361

GENERAL SUMMARY: Article III of the Tax Reform Code imposes a tax on certain classes of personal income, including (1) compensation paid to Pennsylvania residents for services performed both within and outside the state of Pennsylvania, and (2) compensation paid to non-residents of Pennsylvania for services performed within Pennsylvania.

In general, every employer who maintains an office or transacts business in the state and who pays compensation to any worker is required to deduct and withhold from the worker's pay an amount estimated to meet the worker's state income tax liability with respect to such earnings. The employer must periodically remit withheld taxes and submit a withholding return to the state revenue department, and by January 31 of the ensuing year must furnish each employee with a written statement showing the amount of compensation paid and the amount withheld as tax throughout the calendar year.

PROVISIONS APPLICABLE TO AGRICULTURE: With only narrow exceptions, agricultural employers in Pennsylvania are required to withhold state income tax from their workers' wages to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Business Trust Fund Taxes, Pennsylvania Department of Revenue, Harrisburg, Pennsylvania 17128 (717-787-1064). Any worker who has reason to believe that state income tax is being improperly withheld from wages, or incorrectly reported or remitted to the state, should promptly contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Puerto Rico

■ INTERNAL REVENUE CODE OF 2011 (INCOME TAX WITHHOLDING AT THE SOURCE)

STATUTORY CITATION: 13 Laws P.R. Ann. §§ 30271 - 30282

GENERAL SUMMARY: The withholding provisions of Puerto Rico's Internal Revenue Code require every employer making payment of most forms of wages to deduct from each employee's pay an amount corresponding to the worker's income tax liability on the wages, as determined by official withholding schedules. Employers are obligated (1) to periodically report the amount of wages paid and taxes withheld and deposit or remit withheld amounts to the treasury, and (2) by January 31 of the following year, to furnish each worker with a written statement showing the amount of wages paid during the calendar year and the amount of taxes deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: For income tax withholding purposes, the term "wages" does not include remuneration paid for agricultural services, and hence agricultural workers (other than executive, administrative, supervisory and office personnel) are **exempt** from these provisions.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual Puerto Rico income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Collections, Puerto Rico Department of Treasury, San Juan, Puerto Rico 00901 (787-622-0123).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Rhode Island

PERSONAL INCOME TAX LAW

STATUTORY CITATION: 44 R.I. Gen. Laws §§ 44-30-1 - 44-30-100

RELATED REGULATIONS: R.I. Code R. 46 050 010

GENERAL SUMMARY: Chapter 30 of the state tax laws imposes a tax on personal income, which extends to wages of residents and non-residents employed in Rhode Island. In general, every employer who (1) maintains an office or transacts business in the state, and (2) pays any wages which are subject to federal income tax withholding, must deduct and withhold from each employee's earnings an amount calculated to equal the worker's year-end state income tax liability with respect to such wages.

The employer is required to submit a withholding tax return and forward withheld taxes to the state periodically, and by January 31 of the succeeding year must furnish each employee from whom state income taxes were withheld an annual information statement showing the amount of wages paid and the amount deducted as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Rhode Island must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Taxation, Rhode Island Department of Revenue, Providence, Rhode Island 02908 (401-574-8922).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

South Carolina

■ INCOME TAX WITHHOLDING LAW

STATUTORY CITATION: S.C. Code §§ 12-8-10 - 12-8-2040

GENERAL SUMMARY: Every person, firm or other entity paying — or expecting to pay — at least \$1,000 a year in wages, both to South Carolina residents and to non-residents performing services in South Carolina, is required to deduct and withhold from such wages an estimated income tax determined in accordance with tables issued by the state. In general, employers must file a report with the state each calendar quarter and must remit withheld state taxes at the same time that federal withholding taxes are due. No later than January 31 of the succeeding year, the employer must provide each employee with a statement showing the employer's name and address, the worker's name, address and Social Security number, the total amount of wages paid, and the total amount deducted and withheld as state income tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the term "wages" as used in these provisions does not include remuneration paid for agricultural services, farm operators and farmworkers in South Carolina are **exempt** from state income tax withholding, provided the wages involved are for work performed on the farm.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – South Carolina Department of Revenue, Columbia, South Carolina 29210 (803-898-5000; toll-free 844-898-8542).

Utah

→ INDIVIDUAL INCOME TAX ACT (WITHHOLDING OF TAX)

STATUTORY CITATION: Utah Code §§ 59-10-401 - 59-10-408

GENERAL SUMMARY: Part 4 of the Individual Income Tax Act generally requires each employer who pays an employee wages subject to federal income tax withholding, to deduct and withhold from such wages an amount calculated to approximate the worker's liability for state income tax on the wages involved. Employers who withhold state taxes must report and forward those amounts to the state every quarter, and must furnish each worker from whom taxes were withheld during the calendar year a written statement of earnings and taxes no later than January 31 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Utah must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Utah State Tax Commission, Salt Lake City, Utah 84134 (801-297-2200; toll-free 800-662-4335).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Vermont

■ INCOME TAX LAW (WITHHOLDING OF TAXES AT THE SOURCE)

STATUTORY CITATION: Vt. Stat. Title 32, §§ 5841 – 5847

GENERAL SUMMARY: Every person who is required under the Internal Revenue Code to withhold federal income tax from a worker's wages must also deduct and withhold a prescribed amount calculated to approximate the worker's year-end state income tax liability on the earnings. Withheld state taxes must be remitted to the state at least once every three months.

PROVISIONS APPLICABLE TO AGRICULTURE: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Vermont must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Division, Vermont Department of Taxes, Montpelier, Vermont 05633 (802-828-2865; toll-free 866-828-2865).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Virginia

■ INCOME TAX WITHHOLDING LAW

STATUTORY CITATION: Va. Code §§ 58.1-460 - 58.1-486

GENERAL SUMMARY: Every employer making payment of wages in Virginia must deduct and withhold from the wages of each employee, for each payroll period, an amount calculated to approximate the employee's state income tax liability on such wages at year's end. At regular intervals throughout the calendar year, withheld state taxes must be forwarded to the tax commissioner, along with a return. No later than January 31 of the ensuing year the employer must furnish each employee from whom taxes were withheld a written statement showing the employer's name, the name and Social Security number of the employee, the total amount of wages paid for the year, and the total amount of state income tax deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: For state income tax purposes, Virginia conforms to the federal definition of income subject to withholding, and thus generally requires state withholding on any payment for which federal withholding is required. Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year must deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Virginia must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Virginia Department of Taxation, Richmond, Virginia 23218 (804-367-8037). SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

West Virginia

WEST VIRGINIA PERSONAL INCOME TAX ACT (WITHHOLDING)

STATUTORY CITATION: W. Va. Code §§ 11-21-71 - 11-21-77

GENERAL SUMMARY: Every employer who maintains an office or transacts business in West Virginia, and who pays any wages that are taxable under the Personal Income Tax Act to a resident or non-resident individual, must deduct and withhold from such wages for each payroll period a tax computed to approximate the worker's tax liability on the earnings at year's end.

Employers who withhold taxes from their workers' pay are required to remit withheld amounts to the state monthly, quarterly or after the close of the calendar year. By February 15 of the ensuing year, or on the date of the payment of final wages, employers must provide each of their employees a written statement showing the amount of wages paid to the employee and the amount deducted and withheld as tax.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers and their workers are generally subject to the withholding provisions of the Personal Income Tax Act on the same terms as employers and workers in non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Section, West Virginia State Tax Department, Charleston, West Virginia 25301 (304-558-8750).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

Wisconsin

■ INCOME TAX LAW (WITHHOLDING)

STATUTORY CITATION: Wis. Stat. §§ 71.63 - 71.67

GENERAL SUMMARY: Each time an employee is paid, the employer is generally required to deduct and withhold from the worker's wages an amount determined in accordance with state-issued tax tables, for the purpose of meeting state income tax liability on the earnings. Withheld taxes must be forwarded by the employer to the state periodically throughout the year, and no later than January 31 of the following year the employer must provide each worker who earned wages amounting to \$600 or more, or from whom income taxes were withheld, a statement showing the employer's name, the worker's name, the total wages paid, and the total amount of taxes withheld. The employer must forward to the state a copy of the worker's statement and an annual withholding report reconciling Wisconsin taxes withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: As used above, the term "wages" does not include remuneration paid for agricultural labor. Hence, agricultural employers and farmworkers are exempt from the withholding provisions of the state income tax law.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Despite exemption from withholding from wages, farmworkers may be obligated to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - Compliance Bureau, Division of Income, Sales and Excise Tax, Wisconsin Department of Revenue, Madison, Wisconsin 53713 (608-266-2772).

New Hampshire

₩ WAGE PAYMENT LAWS (REQUIRED PAY)

STATUTORY CITATION: N.H. Rev. Stat. § 275:43-a

GENERAL SUMMARY: On any day in which an employee reports to work at the employer's request, the worker is generally entitled to not less than 2 hours' pay at the worker's regular rate, unless the employer made a good-faith effort to notify the worker not to report that day. With certain exceptions, this provision applies to employers with at least one employee.

PROVISIONS APPLICABLE TO AGRICULTURE: The guaranteed pay provision applies to agricultural employers only to the extent that they have 5 or more employees performing agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). An employer's failure to pay the compensation required under this provision is treated as failure to pay any other wages due an employee. A worker who does not receive his or her pay may file a wage claim with the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — As with any other claim for unpaid wages, the pay guarantee may be recovered in a civil suit against the employer involved, through a private attorney or public legal service provider.

Puerto Rico

O WORKERS AND EMPLOYEES BONUS LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 501 - 507

GENERAL SUMMARY: Most employers who employ more than 20 workers for more than 26 weeks during the annual period ending September 30 each year are obligated to grant every employee who has worked at least 1,350 hours a bonus equal to 2 percent of the employee's wages over the annual period, up to a maximum bonus of \$600. For employers who employ 20 workers or fewer for more than 26 weeks, the bonus is equal to 2 percent of the worker's annual earnings, up to a maximum of \$300.

Exception — During the first year of a worker's employment, the employer is required to pay only 50 percent of the bonus amount noted above.

The total amount of an employer's liability for payment of the employee bonuses may not exceed 15 percent of the employer's net annual profit.

The bonus, which is in addition to any other wages or benefits to which the worker is entitled, must normally be paid between November 15 and December 15 following the end of the annual period. The law prescribes a penalty — from 50 to 100 percent of the amount of the bonus, payable to the worker — if an employer fails to pay the bonus during this timeframe.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions do not apply to persons employed in farm activities.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918. SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

→ AGRICULTURAL WORKERS ANNUAL BONUS LAW

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 510 - 510k

GENERAL SUMMARY: Chapter 23 of the Puerto Rico labor laws authorizes payment of an annual bonus to workers whose agricultural earnings or work time meets or exceeds a specified annual level.

SPECIFIC TERMS AND CONDITIONS

BONUS PAYMENT — Every agricultural worker who has performed at least 200 hours of agricultural services or earned at least \$200 in agricultural wages in Puerto Rico over the annual period starting July 1 of each year and ending June 30 of the subsequent year is entitled to a bonus equal to 4 percent of total agricultural income, but in no case less than \$165 or more than \$235. The agricultural bonus, financed by the Commonwealth of Puerto Rico, is payable by December 20 following the end of the corresponding annual period.

EMPLOYER REPORTING — For the purpose of determining eligibility for and the amount of each worker's annual bonus, no later than August 31 of each year all agricultural employers must report to the administering agency the name of each worker employed, the worker's Social Security number, total hours worked, and the amount of earnings over the annual reporting period.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350). This agency is responsible for receiving the employment reports submitted by subject agricultural employers, determining the eligibility of workers for the annual agricultural bonus, computing the amount of the bonus, and disbursing payments to the workers. The agency may also investigate claims for unpaid annual bonuses. If a worker is eligible for the bonus but fails to receive all or part of the amount to which he or she is entitled due to non-compliance by one or more farmers with their reporting duty under these provisions, the worker may claim double the amount of the difference between the total bonus payable and the bonus actually received.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). This agency is responsible for furnishing the wage and hour information required to determine eligibility of workers employed in the agricultural phase of the sugar industry, and for prosecuting claims for unpaid annual bonuses on behalf of any agricultural worker.

Wisconsin

MIGRANT LABOR LAW (GUARANTEED HOURS)

STATUTORY CITATION: Wis. Stat. §§ 103.915(4) – 103.915(7) RELATED REGULATIONS: Wis. Admin. Code § DWD 301.06(8)

GENERAL SUMMARY: Wisconsin's migrant labor law requires agricultural employers, labor contractors, and other entities that hire or recruit migrant agricultural workers for employment in the state, to provide the workers with a written work agreement, which, among other provisions, must contain certain assurances regarding minimum hours of work. The term "migrant worker" generally means anyone who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

GUARANTEED HOURS — Every required work agreement between an employer or contractor and a migrant worker must contain a guarantee of (1) at least 45 hours of work in each 2-week period for workers employed in agricultural field work only, or (2) at least 20 hours of work in each one-week period, or 64 hours in a 2-week period, if the worker is employed in both field and processing operations. The guarantee covers the entire interval from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

EXCEPTIONS — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available. Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to seriously adverse circumstances beyond the employer's control; within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002). A migrant worker who has not received pay in accordance with guarantees shown in the work agreement should contact the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - None.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.

	APPE	NDIX	

Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE Subject AR co DE FL Specific Regulatory Topic or Protection U.S. ALΑK ΑZ CA CT GΑ ΗΙ ID Category Age, Hours, and Related Standards 0 0 Child Labor Compulsory School Attendance o Fair Employment Practices 0 Wage Discrimination O O Civil Age Discrimination Rights Whistleblower Protection . Other Workplace Safety 0 0 0 0 Health General Workplace Sanitation 0 and Safety Agricultural Field Sanitation Other General Employee Housing Standards Farm Labor Housing Standards Housing Access and Visitation Rights Other Unemployment Insurance Workers' Compensation o 0 0 Insurance and Disability Insurance Compensation Paid Family Leave Private Employment Agency Regulation Labor Contractors Farm Labor Contractor Registration and Worker Recruitment Standards Recruitment Other A general labor law or employment standard that applies to agricultural and non-agricultural workers on substantially equal COVERAGE KEY terms, or an agricultural provision that applies to virtually all farmworkers. A general law whose agricultural coverage is substantially narrower than its non-agricultural coverage, or an agricultural provision that applies to only certain classes of farmworkers or under certain less-than-universal coverage criteria. 0 A provision that is not applicable to agricultural employment.

Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE

Subject Category	Speci	Se Begulatory Tonic or Brotaction		ı											
	Specific Regulatory Topic or Protection			IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	мо
l	Age, Ho	ours, and Related Standards	•	۰	•	0 0	0	0	0	0	•	•	•	0	•
Child Labor	Compu	Isory School Attendance	•	•		•	•	•		•	•	•		•	•
	Other									•	•	•		0	0
	Fair Em	ployment Practices	•	•	•	•	•	•		•	•	•	•		•
[Wage D	iscrimination	•	0		0	•			•	0	۰	•		•
Civil Rights	Age Dis	crimination		0		•					0		•		
	Whistle	blower Protection										•	•		
	Other							•							
	Workpla	ace Safety	0	۰	۰		•	0		•		۰	۰		•
Health	General Workplace Sanitation										0				
and Safety	Agricul	tural Field Sanitation	۰						•	۰	•	•			
	Other												٠		
	General	Employee Housing Standards								•					
	Farm La	abor Housing Standards	•		٠				٠		•	۰	0		
Housing -	Access and Visitation Rights		•							•	•				
	Other									•			•		
	Unempl	oyment Insurance	۰	۰	٠	۰	•	•	۰	۰	۰	۰	۰	۰	۰
. [Worker	s' Compensation	0	0	0 0	0	0	۰	0 0	۰	•	۰	۰	0	0
Insurance and Compensation	Disabili	ty Insurance													
Compensation	Paid Fa	mily Leave													
	Other										۰		۰		
	Private	Employment Agency Regulation	•	•		•		•			•				
Labor Contractors	Farm La	abor Contractor Registration				•				۰		•			
and - Worker Recruitment	Recruit	ment Standards	•									•	•		
- Cordinatelle	Other											•	0		
Щ.		A general labor law or employn terms, or an agricultural provis								griculti	ıral wo	rkers o	n subst	antially	equal
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Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE

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Subject Category	Speci	fic Regulatory Topic or Protection	МТ	NE	NV	NH	NJ	NM	NY	NC	ND	ОН	ок	OR	PA
	Age, Ho	ours, and Related Standards	۰	۰	۰	۰	۰	•	•	0	0	•	0	0	•
Child Labor	Compu	Isory School Attendance	•			•	•	•		•	•	•		•	۰
	Other						•		•	•		•	0		•
	Fair Em	ployment Practices	•	•	•	•	•	•	•	•	•	•	•	•	0
	Wage D	discrimination	•	•	•	0	0	•	•		•	•	•	•	•
Civil Rights	Age Dis	scrimination		•							•	•			
	Whistle	blower Protection				•	•					•		•	
	Other		•		•							•			
	Workpl	ace Safety			۰		0	۰	0	۰	0	•		۰	0
Health	Genera	Workplace Sanitation		0							0				
and Safety	Agricul	tural Field Sanitation			۰		۰			•				•	
	Other														
Housing	Genera	Employee Housing Standards	0		•			•		•					
	Farm La	abor Housing Standards					•		٠	•		۰		•	•
	Access	and Visitation Rights												•	•
	Other														
	Unemp	loyment Insurance	۰	۰	۰	۰	۰	۰	۰	۰	•	۰	۰	•	۰
	Worker	s' Compensation	•	۰	0 0	•	•	0	۰	۰	0	•	0	•	0
Insurance and	Disabili	ity Insurance					۰		0						
Compensation	Paid Fa	mily Leave					۰		0						
	Other														
	Private	Employment Agency Regulation					0				0		0	0	
Labor Contractors	Farm La	abor Contractor Registration					•		•					•	۰
and Worker	Recruit	ment Standards												•	
Recruitment	Other														
<u>"</u>		A general labor law or employs terms, or an agricultural provis								gricult	ural wo	rkers o	n subst	antially	equa
COVERAGE KEY	•	A general law whose agricultur provision that applies to only o	al cover	rage is s	ubstan	tially na	irrowei	than it	s non-a	The state of the s		100			ral
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Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE Subject PR RI SC SD ΤN UT WA WY Specific Regulatory Topic or Protection TΧ WA WI Category Age, Hours, and Related Standards 0 Child Labor Compulsory School Attendance Fair Employment Practices Wage Discrimination Civil Age Discrimination Rights Whistleblower Protection Other Workplace Safety O 0 General Workplace Sanitation Health and Safety Agricultural Field Sanitation Other General Employee Housing Standards Farm Labor Housing Standards Housing Access and Visitation Rights Other Unemployment Insurance Workers' Compensation 0 0 Insurance and Disability Insurance Compensation Paid Family Leave Private Employment Agency Regulation o 0 0 Labor Farm Labor Contractor Registration Contractors and Worker Recruitment Standards Recruitment Other A general labor law or employment standard that applies to agricultural and non-agricultural workers on substantially equal COVERAGE KEY terms, or an agricultural provision that applies to virtually all farmworkers. A general law whose agricultural coverage is substantially narrower than its non-agricultural coverage, or an agricultural • provision that applies to only certain classes of farmworkers or under certain less-than-universal coverage criteria. A provision that is not applicable to agricultural employment. 0

Subject

Category

Labor Relations and

Collective Bargaining

Pesticides

and Agricultural

Chemicals

Transportation

Wages

and

Hours

Agricultural Liens

Other

Income Tax Withholding

Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE U.S. ΑK ΑZ AR CA CO CT DE FL GΑ ΙD Specific Regulatory Topic or Protection **General Labor Relations** 0 0 0 . Agricultural Labor Relations ۰ . Other General Application Standards . . **Aerial Application Standards** . . . ۰ Field Worker Safety Standards . **Hazard Communication** 0 Anhydrous Ammonia . • Other . 0 . General Employee Transportation Safety Farmworker Transportation Safety • • Other • • Minimum Wage • ٠ • • 0 . 0 0 . • Overtime Pay 0 0 0 0 **Hour Standards** 0 Wage Payment and Collection 0 . • . .

GE	•	A general labor law or employment standard that applies to agricultural and non-agricultural workers on substantially equal terms, or an agricultural provision that applies to virtually all farmworkers.
VERA KEY	•	A general law whose agricultural coverage is substantially narrower than its non-agricultural coverage, or an agricultural provision that applies to only certain classes of farmworkers or under certain less-than-universal coverage criteria.
8	0	A provision that is not applicable to agricultural employment.

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Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE

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Subject Category	Speci	ific Regulatory Topic or Protection	IL	IN	IA	KS	KY	LA	ME	MD	MA	МІ	MN	MS	мо
Labor	Genera	l Labor Relations									•		0		
Relations and Collective	Agricul	Itural Labor Relations				•									
Bargaining	Other							•					0		
	Genera	al Application Standards	•	•	•	•			•		•	•		•	
	Aerial /	Application Standards										•		•	
Pesticides and	Field W	orker Safety Standards													
Agricultural Chemicals	Hazard	Communication		•	•					0		•	•		
	Anhydi	rous Ammonia			•	•						•	•		
	Other														
Transportation	Genera	l Employee Transportation Safety													
	Farmw	orker Transportation Safety							•	•		•			
	Other												•		
	Minimu	um Wage	0	0	•	0	0		0	۰	۰	•	•		•
	Overtin	ne Pay	0	0		0	0		0	۰	0	0	•		0
	Hour S	tandards	0								0	0	•		0
Wages and	Wage F	Payment and Collection		•	•				•		•	•	•	•	
Hours	Agricul	Itural Liens	Ť	0										•	
	Income	Tax Withholding	•	•	•	•	•	•	۰	•	•	•	•	•	•
	Other														
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A provision that is not applicable to agricultural employment.															

Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE

Subject Category	Speci	ific Regulatory Topic or Protection	МТ	NE	NV	NH	NJ	NM	NY	NC	ND	ОН	ок	OR	PA
Labor	Genera	l Labor Relations							0		0			0	o
Relations and Collective	Agricul	Itural Labor Relations													
Bargaining	Other												•		
	General Application Standards		•		•	•			•		•	•		•	
	Aerial /	Application Standards				•					•				
Pesticides and	Field W	orker Safety Standards				•						•		•	
Agricultural Chemicals	Hazard	Communication	0		•	•	0	•	•	•				•	
	Anhydi	rous Ammonia	•		•			•		•		•		•	
	Other														
Transportation	Genera	l Employee Transportation Safety												•	
	Farmw	orker Transportation Safety								•					•
	Other			•			•								
	Minimu	ım Wage	•	0	•	0	•	•	0	0		•	0	•	0
	Overtin	ne Pay	0		0		0	0	0	0	0	0		0	c
	Hour S	tandards	0			•		0	0						•
Wages and Hours	Wage F	Payment and Collection	•	•	•	•	•	0	•	•		•	•	•	•
	Agricul	Itural Liens	•												
	Income	Tax Withholding	•	•			•	•	•	•	•	•	•	•	
	Other					•									
GE	•	A general labor law or employs terms, or an agricultural provis								gricult	ural wo	rkers o	n subst	antially	equ
COVERAGE KEY	•	A general law whose agricultur provision that applies to only o				-									ral
8	0	A provision that is not applicab	le to ag	ricultur	al empl	oymen	t.								

Federal and State Employment Standards TABLE OF AGRICULTURAL COVERAGE Subject UT Specific Regulatory Topic or Protection RI SC SD TN ΤX WA WY Category **General Labor Relations** 0 0 0 0 0 . Labor Relations and Agricultural Labor Relations Collective Bargaining **General Application Standards** . . **Aerial Application Standards** . . Pesticides Field Worker Safety Standards and Agricultural 0 **Hazard Communication** • ۰ 0 O Chemicals Anhydrous Ammonia • 0 General Employee Transportation Safety 0 Transportation Farmworker Transportation Safety Other Minimum Wage 0 0 ۰ 0 0 Overtime Pay 0 0 0 0 **Hour Standards** 0 Wages and Wage Payment and Collection 0 • Hours Agricultural Liens . . Income Tax Withholding ۰ ۰ • ۰ ۰ Other

COVERAGE KEY A general labor law or employment standard that applies to agricultural and non-agricultural workers on substantially equal terms, or an agricultural provision that applies to virtually all farmworkers.

A general law whose agricultural coverage is substantially narrower than its non-agricultural coverage, or an agricultural provision that applies to only certain classes of farmworkers or under certain less-than-universal coverage criteria.

A provision that is not applicable to agricultural employment.

RELATED FARMWORKER RESOURCES

U.S. Department of Labor Farmworker Programs

<u>Career Services</u>. As authorized by Section 167 of the Workforce Innovation and Opportunity Act (29 USC §§ 3101–3361), the U.S. Department of Labor administers a categorical career services program for migrant and seasonal farmworkers. The National Farmworker Jobs Program provides services in all states (currently excepting Alaska) and in the Commonwealth of Puerto Rico, through 56 public and private-nonprofit grantees. NFJP operations are under the supervision of the Division of National Programs, Tools and Technical Assistance, in the national office of the Employment and Training Administration.

The major portion of WIOA Section 167 dollars is invested in helping migrant and seasonal farmworkers obtain and retain stable, year-round jobs, both within and outside agriculture. The centerpiece of the program is job training and supportive services that successfully redirect participants into new careers or stabilize their current agricultural employment.

At one stage or another of the service delivery process, NFJP program operators routinely encounter farmworkers faced with many of the workplace challenges addressed by the laws cataloged on this website — unpaid wages, unsafe or unsanitary working conditions, denial of employee benefits, and others. Helping connect workers with enforcement agencies and legal resources to resolve these kinds of complaints is a key element of the program in many areas, within the scope of "related assistance" allowable under NFJP regulations.

NFJP Career Services Program Operators

ALABAMA Telamon Corporation

51 Wisteria Place

Millbrook, Alabama 36054

334-239-2600

ARIZONA Portable Practical Educational Preparation, Inc.

806 East 46th Street Tucson, Arizona 85713

520-770-2500

ARKANSAS Arkansas Human Development Corporation

300 South Spring Street, Suite 700 Little Rock, Arkansas 72201

501-374-1103

CALIFORNIA California Human Development

3835 N. Freeway Drive, Suite 140 Sacramento, California 95834

916-514-4313

Center for Employment Training

701 Vine Street

San Jose, California 95110

408-287-7924

Central Valley Opportunity Center 6838 West Bridget Court / P.O. Box 1389

Winton, California 95388

Willia 75.

209-357-0062

CALIFORNIA (continued) La Cooperativa Campesina de California

7801 Folsom Boulevard, Suite 365 Sacramento, California 95826

916-388-2220

Employers' Training Resource

1600 E. Belle Terrace

Bakersfield, California 93307

661-336-6893

Proteus, Inc.

1830 North Dinuba Boulevard Visalia. California 93291

559-733-5423

COLORADO Rocky Mountain SER

3555 Pecos Street Denver, Colorado 80211

719-980-5464

CONNECTICUT New England Farmworkers Council

56 Arbor Street, Suite 307 Hartford, Connecticut 06114

860-293-2552

DELAWARE Telamon Corporation

26351 Patriots Way, Building W4 Georgetown, Delaware 19947

410-546-4604

FLORIDA Florida Farmworker Jobs and Education Program

Florida Department of Education 1313 N. Tampa Street, Suite 103

Tampa, Florida 33602

813-224-1920

GEORGIA Telamon Corporation

102 Corporate Square Dublin, Georgia 31021

478-304-1174

HAWAII Maui Economic Opportunity, Inc.

99 Mahalani Street Wailuku, Hawaii 96793

808-249-2990

IDAHO Idaho Migrant Council, Inc.

317 Happy Day Boulevard, Suite 250

Caldwell, Idaho 83607

208-454-1652

ILLINOIS Illinois Migrant Council

118 S. Clinton Street, Suite 500

Chicago, Illinois 60661

312-663-1522

INDIANA Proteus, Inc.

3850 Merle Hay Road, Suite 500

Des Moines, Iowa 50310

515-271-5306

IOWA Proteus, Inc.

3850 Merle Hay Road, Suite 500

Des Moines, Iowa 50310

515-271-5306

KANSAS SER Corporation

1020 North Main, Suite D Wichita, Kansas 67203

316-264-5372

KENTUCKY Kentucky Farmworker Program, Inc.

P. O. Box 51146

Bowling Green, Kentucky 42102

270-782-2330

LOUISIANA Motivation Education & Training, Inc.

124 E. Main Street

New Iberia, Louisiana 70560

337-367-6654

MAINE Eastern Maine Development Corporation

248 State Street, Suite 15A Ellsworth, Maine 04605

207-610-1521

MARYLAND Telamon Corporation

31901 Tri-County Way, Suite 112 Salisbury, Maryland 21804

410-546-4604

MASSACHUSETTS New England Farm Workers Council

11-13 Hampden Street, 3rd Floor Springfield, Massachusetts 01103

413-536-5403

MICHIGAN Telamon Corporation

416 North Cedar Street Lansing, Michigan 48912

517-323-7002

MINNESOTA Motivation Education & Training, Inc.

P. O. Box 1838

New Caney, Texas 77357

830-776-0660

MISSISSIPPI Mississippi Delta Council for Farmworker Opportunities, Inc.

1005 N. State Street

Clarksdale, Mississippi 38614

662-627-1121

MISSOURI UMOS

4212 South Hocker Drive, Suite 220 Independence, Missouri 64055

816-836-5887

MONTANA Rural Employment Opportunities

P.O. Box 831

Helena, Montana 59624

406-442-7850

NEBRASKA Proteus, Inc.

3830 VerMaas Place, Suite A Lincoln, Nebraska 685021459

402-805-4004

NEVADA Oregon Human Development Corporation

9600 Southwest Oak Street, Suite 565

Tigard, Oregon 97223

503-452-6661

NEW HAMPSHIRE New England Farm Workers Council

11-13 Hampden Street

Springfield, Massachusetts 01103

413-272-2299

NEW JERSEY PathStone Corporation

76 W. Landis Avenue, Suite C Vineland, New Jersey 08360

856-696-1000

NEW MEXICO HELP-New Mexico, Inc.

5101 Copper Avenue, N.E.

Albuquerque, New Mexico 87108

505-766-4950

NEW YORK PathStone Corporation

400 East Avenue

Rochester, New York 14607

585-340-3386

NORTH CAROLINA Telamon Corporation

5560 Munford Road, Suite 107 Raleigh, North Carolina 27612

919-239-8151

NORTH DAKOTA Motivation Education & Training, Inc.

P. O. Box 1838

New Caney, Texas 77357

281-689-5544

NEW YORK PathStone Corporation

400 East Avenue

Rochester, New York 14607

585-340-3322

OKLAHOMA ORO Development Corporation

909 S. Meridian Avenue, Suite 350 Oklahoma City, Oklahoma 73108

405-840-7077

OREGON Oregon Human Development Corporation

9600 Southwest Oak Street, Suite 565

Tigard, Oregon 97223

503-452-6661

PENNSYLVANIA PathStone Corporation

421 McFarlan Road, Suite E

Kennett Square, Pennsylvania 19365

610-925-5600

PUERTO RICO PathStone Corporation

400 East Avenue

Rochester, New York 14607

585-340-3365

RHODE ISLAND New England Farmworkers Council

56 Arbor Street, Suite 307 Hartford, Connecticut 06114

860-293-2552

SOUTH CAROLINA Telamon Corporation

2000 Park Street, Suite 103 Columbia, South Carolina 29201

803-667-4218

SOUTH DAKOTA Black Hills Special Services Cooperative

730 E. Watertown Street Rapid City, South Dakota 57701

605-394-5120

TENNESSEE Tennessee Opportunity Programs, Inc.

437 Nissan Drive, Suite 502 / P.O. Box 925

Smyrna, Tennessee 37167

615-459-3600

TEXAS Motivation Education & Training, Inc.

P. O. Box 1838

New Caney, Texas 77357

281-689-5544

UTAH Futures Through Training, Inc.

1140 East 36th Street, Suite 150

Ogden, Utah 84403 801-394-9774

VERMONT PathStone Corporation

86 North Main Street St. Albans, Vermont 05478

877-764-4109

VIRGINIA Telamon Corporation

808 Moorefield Park Drive, Suite 106

Richmond, Virginia 23236

804-355-4676

WASHINGTON OIC of Washington

270-9th Street, N.E.

East Wenatchee, Washington 98802

509-665-3718

WEST VIRGINIA Telamon Corporation

5560 Munford Road, Suite 201 Raleigh, North Carolina 37612

919-239-8117

WISCONSIN UMOS, Inc.

2701 S. Chase Avenue / P.O. Box 04129

Milwaukee, Wisconsin 53204

414-389-6000

WYOMING Motivation Education & Training, Inc.

P. O. Box 1838

New Caney, Texas 77357

281-689-5544

WASHINGTON, DC Association of Farmworker Opportunity Programs

(Technical Services) 1120–20th Street, N.W., Suite 300 South

Washington, D.C. 20036

202-384-1754

<u>Farmworker Housing Services</u>. In addition to job training and employment stabilization support, the Labor Department also provides funding to 11 private-nonprofit organizations for the development of permanent and temporary housing facilities for migrant and seasonal farmworkers in 31 states and Puerto Rico. The program addresses the need for both single- and multifamily housing, both in the workers' home communities and at their temporary work locations.

NFJP Housing Program Operators

<u>Grantee Organization</u> <u>Service Area</u>

Community Resources & Housing Development Corporation

7305 Lowell Boulevard, Suite 200 Westminster, Colorado 80030

303-428-1448

Florida Non-Profit Housing, Inc. Delaware, Florida, Maryland, Mississippi, Virginia

Arizona, Colorado, Idaho, New Mexico, Texas

3909 Kenilworth Boulevard / P.O. Box 1987

Sebring, Florida 33871

863-385-2519

La Cooperativa Campesina de California California 7801 Folsom Boulevard, Suite 365

Sacramento, California 95826

916-388-2228

Motivation Education & Training, Inc. P. O. Box 1838 New Caney, Texas 77357

281-689-5544

509-248-7014

Office of Rural and Farmworker Housing 1400 Summitview Avenue, #203 Yakima, Washington 98902

Washington, Oregon

Texas, Louisiana

PathStone Corporation 400 East Avenue Rochester, New York 14607 585-340-3346

New York, Vermont, New Jersey, Maine, Pennsylvania, Ohio, Indiana, Puerto Rico

PPEP Microbusiness & Housing Development Corporation 806 E. 46th Street

520-770-2500

Tucson, Arizona 85713

Rural Community Assistance Corporation 3120 Freeboard Drive, Suite 201 West Sacramento, California 95691 916-447-9832

California, Hawaii

Arizona

California

Self-Help Enterprises 8445 W. Elowin Court / P. O. Box 6520 Visalia, California 93290 559-802-1653

Tennessee Opportunity Programs, Inc. Tennessee

437 Nissan Drive, Suite 502 / P. O. Box 925 Smyrna, Tennessee 37167 615-459-3600

UMOS. Inc. Nebraska, 2701 S. Chase Avenue / P. O. Box 04129 Milwaukee, Wisconsin 53204 414-389-6006

Illinois, Iowa, Kansas, Minnesota, Missouri, South Dakota, Wisconsin

Agricultural Worker Legal Assistance Projects

The Legal Services Corporation, established by Congress in 1974 to support programs providing free legal services to lowincome people, provides funding to organizations in 43 states and Puerto Rico to specifically address the unique legal problems of agricultural workers. The LSC agricultural worker grantees provide legal assistance from year-round offices, supplemented by additional outreach facilities that are open temporarily during periods of heavy seasonal agricultural

LSC's grantees with agricultural worker funding can handle employment-related civil cases involving many of the rights outlined on this website. Funds appropriated under the Legal Services Corporation Act (42 USC 2996-2996l) cannot be used to represent clients in criminal matters and are subject to other restrictions, including a prohibition on the representation of most persons without work authorization.

LSC Agricultural Worker Legal Services Grantees

Grantee Organization

States Served

California

California Rural Legal Assistance, Inc. 1430 Franklin Street, Suite 103

Oakland, California 94612

510-267-0762

California

California Rural Legal Assistance, Inc. 1430 Franklin Street, Suite 103

Oakland, California 94612

510-267-0762

Central Virginia Legal Aid Society, Inc.

101 W. Broad Street, Suite 101 / P.O. Box 12206

Richmond, Virginia 23241

804-648-1012

Virginia

Colorado Legal Services

1905 Sherman Street, Suite 400

Denver, Colorado

303-866-9399

Colorado

Florida Rural Legal Services, Inc.

1321 E. Memorial Boulevard Lakeland, Florida 33801

239-334-4554

Florida

Georgia Legal Services Program 104 Marietta Street, Suite 250

Atlanta, Georgia 30303

404-206-5175

Georgia

Idaho Legal Aid Services, Inc.

1447 S. Tyrell Lane Boise, Idaho 83706 208-336-8980 Idaho

Indiana Legal Services, Inc.

Market Square Center, Suite 1850

151 N. Delaware Street

Indianapolis, Indiana 46204

317-631-9410

Indiana

Iowa Legal Aid

1111 Ninth Street, Suite 230

Des Moines, Iowa 50314

515-243-2151

Iowa

Legal Assistance Foundation of Metropolitan Chicago (LAF)

120 S. LaSalle Street, Suite 900

Chicago, Illinois 60603

312-341-1070

Illinois

Legal Action of Wisconsin, Inc. 230 W. Wells Street, Room 800 Milwaukee, Wisconsin 53203 414-278-7777 Wisconsin

Legal Aid of Nebraska 209 S. 19th Street, Suite 200 Omaha, Nebraska 68102 402-348-1069 Nebraska

Legal Aid of North Carolina, Inc. 224 S. Dawson Street Raleigh, North Carolina 27601 919-856-2564 North Carolina

Legal Aid of Western Missouri 4001 Blue Parkway, Suite 300 Kansas City, Missouri 64130 816-474-6750 Missouri

Legal Aid of Western Ohio, Inc. 525 Jefferson Avenue, Suite 400 Toledo, Ohio 43604 419-724-0030 Ohio

Legal Aid Services of Oklahoma, Inc. 2915 N. Classen Boulevard, Suite 500 Oklahoma City, Oklahoma 73106 405-557-0020 Oklahoma

Legal Aid Services of Oregon 520 S.W. Sixth Avenue, Suite 1130 Portland, Oregon 97204 503-224-4094 Oregon

Legal Aid Society of Mid-New York, Inc. 268 Genesee Street Utica, New York 13502 315-793-7000 New York

Maryland Legal Aid 500 E. Lexington Street Baltimore, Maryland 21202 410-951-7680 Delaware, Maryland

Michigan Advocacy Program 420 N. Fourth Avenue Ann Arbor, Michigan 48104 734-665-6181 Michigan

Montana Legal Services Association 616 Helena Avenue, Suite 100 Helena, Montana 59601 406-442-9830 Montana

New Mexico Legal Aid 301 Gold Avenue, S.W. / P.O. Box 25486 Albuquerque, New Mexico 87102 505-243-7871 New Mexico

Northwest Justice Project 401 Second Avenue South, Suite 407 Seattle, Washington 98104 206-464-1519 Washington

Philadelphia Legal Assistance Center 718 Arch Street, Suite 300N Philadelphia, Pennsylvania 19102 215-981-3808 Pennsylvania

Pine Tree Legal Assistance, Inc. 88 Federal Street / P.O. Box 547 Portland, Maine 04112 207-774-4753 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Puerto Rico Legal Services, Inc. 1859 Avenue Ponce de Leon, Pda. 26 Apartado 9134 San Juan, Puerto Rico 00908 787-728-8686 Puerto Rico

South Carolina Legal Services, Inc. 701 S. Main Street Greenville, South Carolina 29601 803-744-4179 South Carolina

Southern Minnesota Regional Legal Services, Inc. Alliance Bank Center 55 E. 5th Street, Suite 1000 St. Paul, Minnesota 55101 651-228-9823 Minnesota, North Dakota

South Jersey Legal Services, Inc. 745 Market Street Camden, New Jersey 08102 856-964-2010 New Jersey

Texas RioGrande Legal Aid, Inc. 300 S. Texas Boulevard Weslaco, Texas 78596 956-447-4800 Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, Texas

Utah Legal Services, Inc. 205 North 400 West Salt Lake City, Utah 84103 801-924-3381 Utah

State Farmworker Monitor Advocates

Federal regulations governing the nationwide system of public employment offices (20 CFR Part 658) require each state workforce agency to establish formal procedures for responding to worker complaints against an employer to whom the worker was referred by the agency, or complaints involving services provided by the agency's local offices. A worker may file an employment complaint at any local office of the state workforce agency, or at any career center, within 2 years of the alleged violation.

Special rules apply to complaints filed by migrant and seasonal farmworkers. If the complaint alleges a violation of an employment-related law and informal resolution at the local level would be detrimental to the complainant, the matter must be forwarded immediately to the appropriate enforcement agency. Other kinds of complaints made by a farmworker must be investigated and either (a) resolved to the complainant's satisfaction at the local level within 5 working days, or (b) forwarded to the state office for further investigation and resolution. Every farmworker complaint received at the state level, whether submitted directly by the complainant or referred by a local office, must be resolved within 20 working days of the date of receipt by the headquarters staff. In the event the case is not settled within this timeframe, the staff is required to issue a written determination regarding its investigation, findings and conclusions, and to advise the complainant of the right to a hearing.

The state workforce agency official designated to handle complaints by farmworkers and other agency customers is known as the State Monitor Advocate, who is appointed by the state agency administrator. Among other responsibilities, it is the Monitor Advocate's duty to assure that farmworkers are afforded public employment services on the same basis as their non-farmworking counterparts.

NATIONAL OFFICE

National Monitor Advocate Employment and Training Administration U.S. Department of Labor 90–7th Street, Suite 17300 San Francisco, California 94103 415-625-7904

REGIONAL OFFICES

REGION 1	Regional Monitor Advocate Employment and Training Administration U.S. Department of Labor JFK Federal Building, Room E-350 Boston, Massachusetts 02203 617-788-0377	REGION 4	Regional Monitor Advocate Employment and Training Administration U.S. Department of Labor 525 Griffin Square, Room 317 Dallas, Texas 75202 972-850-4618
REGION 2	Regional Monitor Advocate Employment and Training Administration U.S. Department of Labor 170 S. Independence Mall West, Suite 825 E. Philadelphia, Pennsylvania 19106 15-861-5251	REGION 5	Regional Monitor Advocate Employment and Training Administration U.S. Department of Labor 230 S. Dearborn Street, 6th Floor Chicago, Illinois 60604 12-596-5515
REGION 3	Regional Monitor Advocate Employment and Training Administration U.S. Department of Labor 61 Forsyth Street, S.W., Room 6M12 Atlanta, Georgia 30303	REGION 6	Regional Monitor Advocate Employment and Training Administration U.S. Department of Labor 90–7th Street, Suite 17300 San Francisco, California 94103

415-625-7924

404-302-5377

STATE OFFICES

ALABAMA State Monitor Advocate

Employment Service Department Alabama Department of Labor 649 Monroe Street, Room 2813 Montgomery, Alabama 36131

334-242-8020

ARIZONA State Monitor Advocate

Arizona Department of Economic Security

663 N. 1st Street

San Luis, Arizona 85349

928-722-5545

ARKANSAS State Monitor Advocate

Arkansas Department of Workforce Services #2 Capital Mall, Room 434 / P. O. Box 2981

Little Rock, Arkansas 72201

501-683-2372

CALIFORNIA State Monitor Advocate

California Employment Development Department 800 Capitol Mall: MIC 74 / P. O. Box 826880

Sacramento, California 95814

916-651-9457 / Toll-Free 866-289-8356

COLORADO State Monitor Advocate

Workforce Development Programs

Colorado Department of Labor and Employment

633–17th Street, 7th Floor Denver, Colorado 80202

303-318-8802

CONNECTICUT State Monitor Advocate

Connecticut Department of Labor 200 Folly Brook Boulevard Wethersfield, Connecticut 06109

860-263-6072

DELAWARE State Monitor Advocate

Division of Employment and Training 1114 S. DuPont Highway, Suite 104

Dover, Delaware 19901

302-857-5873

FLORIDA State Monitor Advocate

Workforce Program Support

Department of Economic Opportunity 107 E. Madison Street, MSC G-229

Tallahassee, Florida 32399

850-921-3207

GEORGIA State Monitor Advocate

Georgia Department of Labor

148 Andrew Young International Boulevard, N.E., Suite 450

Atlanta, Georgia 30303

888-655-9340

HAWAII State Monitor Advocate

Workforce Development Division

Department of Labor and Industrial Relations

830 Punchbowl Street, Room 329

Honolulu. Hawaii 96813

808-586-8820

IDAHO State Monitor Advocate

Idaho Department of Labor

317 W. Main Street Boise, Idaho 83735 208-332-3570 x3135

ILLINOIS State Monitor Advocate

Illinois Department of Employment Security

1701 E. Lincoln Highway DeKalb, Illinois 60115 312-793-1284

INDIANA State Monitor Advocate

Indiana Department of Workforce Development

Government Center South, Room SE 308

10 N. Senate Avenue Indianapolis, Indiana 46204

317-233-6681

IOWA State Monitor Advocate

Workforce Services Division Iowa Workforce Development 1000 E. Grand Avenue Des Moines, Iowa 50319

515-725-2835

KANSAS State Monitor Advocate

Kansas Department of Commerce 1000 S.W. Jackson Street, Suite 100

Topeka, Kansas 66612

785-296-5014

KENTUCKY State Monitor Advocate

Office of Employment and Training

Kentucky Department of Workforce Investment 275 E. Main Street, 2nd Floor West (2WA)

Frankfort, Kentucky 40621

502-782-3079

LOUISIANA State Monitor Advocate

Office of Workforce Development Louisiana Workforce Commission

1001 N. 23rd Street, Capitol Station / P. O. Box 94094

Baton Rouge, Louisiana 70804

225-342-7632

MAINE State Monitor Advocate

Bureau of Labor Standards Maine Department of Labor 185 Lancaster Street Portland, Maine 04101

207-822-0152

MARYLAND State Monitor Advocate

Department of Labor, Licensing and Regulation

1100 N. Eutaw Street, Room 209 Baltimore, Maryland 21201

410-767-2050

MASSACHUSETTS State Monitor Advocate

Division of Career Services

Labor and Workforce Development

Charles F. Hurley Building 19 Stanford Street, 1st Floor Boston, Massachusetts 02114

617-626-5587

MICHIGAN State Monitor Advocate

Bureau of Workforce Transformation

Michigan Department of Energy, Labor and Economic Growth

201 N. Washington Square, 5th Floor

Lansing, Michigan 48913

517-241-8669

MINNESOTA State Monitor Advocate

Statewide Systems

Department of Employment and Economic Development

332 Minnesota Street, Suite E200

St. Paul, Minnesota 55101

651-259-7513

MISSISSIPPI State Monitor Advocate

Mississippi Department of Employment Security

P. O. Box 1699

Jackson, Mississippi 39215

601-321-6030

MISSOURI State Monitor Advocate

Division of Workforce Development

Missouri Department of Economic Development

421 E. Dunklin / P. O. Box 1087 Jefferson City, Missouri 65102

573-751-3346

MONTANA State Monitor Advocate

Job Service Operations Bureau, WSD

Montana Department of Labor and Industry / P. O. Box 1728

Helena, Montana 59624

406-444-2981

NEBRASKA State Monitor Advocate

Nebraska Department of Labor

550 S. 16th Street

Lincoln, Nebraska 68509

402-471-4720

NEVADA State Monitor Advocate

Workforce Investment Support Services

Employment Security Division

Department of Employment, Training and Rehabilitation

500 E. Third Street

Carson City, Nevada 89713

775-684-0315

NEW HAMPSHIRE State Monitor Advocate

New Hampshire Employment Security

32 South Main Street

Concord, New Hampshire 03301

603-228-4083

NEW JERSEY State Monitor Advocate

New Jersey Department of Labor and Workforce Development

P. O. Box 110, 13th Floor, Suite K Trenton, New Jersey 08625

609-292-4533

NEW MEXICO State Monitor Advocate

New Mexico Department of Workforce Solutions

226 S. Alameda

Las Cruces, New Mexico 88005

575-524-6257

NEW YORK State Monitor Advocate

New York State Department of Labor

State Office Building Campus Building #12, Room 572 Albany, New York 12240

518-457-0039

NORTH CAROLINA State Monitor Advocate

Division of Employment Security

North Carolina Department of Commerce

313 Chapanoke Road, Suite 210 / P. O. Box 27625

Raleigh, North Carolina 27611

919-814-0464

NORTH DAKOTA State Monitor Advocate

Job Service North Dakota

1000 E. Divide Avenue / P. O. Box 5507

Bismarck, North Dakota 58506

701-328-1976

OHIO State Monitor Advocate

Ohio Department of Job and Family Services 4020 E. Fifth Avenue / P. O. Box 1618

Columbus, Ohio 43216

614-466-9646 / Toll-Free 800-282-3525

OKLAHOMA State Monitor Advocate

Oklahoma Employment Security Commission Will Rogers Memorial Building / P. O. Box 52003

Oklahoma City, Oklahoma 73152

405-557-5474

OREGON State Monitor Advocate

Oregon Employment Department 875 Union Street, N.E., Room 201

Salem, Oregon 97311 503-947-1996

PENNSYLVANIA State Monitor Advocate

Bureau of Employer and Career Services Department of Labor and Industry

L&I Building, Seventh & Forster Streets, 13th Floor West

Harrisburg, Pennsylvania 17120

717-346-1065

PUERTO RICO State Monitor Advocate

Bureau of Employment Security

Puerto Rico Department of Labor and Human Resources

P. O. Box 195540 / San Juan, Puerto Rico 00919

1590 Ponce de León Avenue, Suite 4 Río Piedras, Puerto Rico 00926

787-625-3137

RHODE ISLAND State Monitor Advocate

Rhode Island Department of Labor and Training

1511 Pontiac Avenue, Building 73-2 Cranston, Rhode Island 02920

401-462-8806

SOUTH CAROLINA State Monitor Advocate

Division of Organizational Integrity

South Carolina Department of Employment and Workforce

631 Hampton Street

Columbia, South Carolina 29202

803-737-2535

SOUTH DAKOTA State Monitor Advocate

South Dakota Department of Labor Kneip Building, 700 Governors Drive

Pierre, South Dakota 57501

605-773-3101

TENNESSEE State Monitor Advocate

Tennessee Department of Labor and Workforce Development

220 French Landing Drive, 4B Nashville, Tennessee 37243

615-741-5671

TEXAS State Monitor Advocate

Texas Workforce Commission

101 E. 15th Street & Congress, Room 202T

Austin, Texas 78778 512-475-1179

UTAH State Monitor Advocate

Utah Department of Workforce Services

140 East 300 South Salt Lake City, Utah 84111

801-526-4312

VERMONT State Monitor Advocate

Vermont Department of Labor

201 Lapham Bay Road / P. O. Box 183

Shoreham, Vermont 05770

802-595-2912

VIRGINIA State Monitor Advocate

Virginia Employment Commission 703 E. Main Street, Room 308 Richmond, Virginia 23219

804-786-6094

WASHINGTON State Monitor Advocate

Washington State Employment Security Department

1530 Stevens Street / P. O. Box 9046 Walla Walla, Washington 99362

509-527-1844

WEST VIRGINIA State Monitor Advocate

Employment Services Programs WorkForce West Virginia

112 California Avenue, Room 406-A Charleston, West Virginia 25305

304-558-2850

WISCONSIN State Monitor Advocate

Bureau of Job Service

Division of Employment and Training Department of Workforce Development

201 E. Washington Avenue, Room E-100 / P. O. Box 7972

Madison, Wisconsin 53707

608-266-0487

WYOMING State Monitor Advocate

Employment Services Division

Wyoming Department of Workforce Services

851 Werner Court, Suite 121 Casper, Wyoming 82601

307-233-4657